

EXHIBIT O

<p>1</p> <p>2 THE UNITED STATES DISTRICT COURT</p> <p>3 SOUTHERN DISTRICT OF NEW YORK</p> <p>4 -----X MARJORIE PHILLIPS,</p> <p>5 Plaintiff,</p> <p>6</p> <p>7 -against- Civil Action No.: 8 17-cv-00221 (GBD)</p> <p>9</p> <p>10 THE FASHION INSTITUTE OF TECHNOLOGY, MARY DAVIS, and MARILYN BARTON,</p> <p>11 Defendants.</p> <p>12 -----X</p> <p>13 DATE: December 20, 2021</p> <p>14 TIME: 10:09 a.m.</p> <p>15</p> <p>16</p> <p>17</p> <p>18 DEPOSITION of</p> <p>19 CYNTHIA GLASS, taken by the Plaintiff,</p> <p>20 pursuant to a Notice, held via Video</p> <p>21 Conferencing, before Lesley Simpson, a Notary</p> <p>22 Public of the State of New York.</p> <p>23</p> <p>24</p> <p>25</p>	<p>3</p> <p>1</p> <p>2 A L S O P R E S E N T:</p> <p>3</p> <p>4 MARJORIE PHILLIPS, Plaintiff</p> <p>5 MARY DAVIS, Defendant</p> <p>6 MARILYN BARTON, Defendant</p> <p>7 ANDRE THOMAS, Exhibit Manager PFP REPORTING</p> <p>8</p> <p>9 * * *</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>2</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 THE COCHRAN FIRM, P.C. Attorneys for Plaintiff One Exchange Place 23rd Floor New York, New York 10006</p> <p>7 BY: DEREK S. SELLS, ESQ. MINA MALIK, ESQ. MONIQUE MILNER, ESQ.</p> <p>9</p> <p>10 NIXON PEABODY LLP Attorneys for Defendant THE FASHION INSTITUTE OF TECHNOLOGY 50 Jericho Quadrangle Suite 300 Jericho, New York 11753</p> <p>14 BY: NICHOLAS MELITO, ESQ. ROSE NANKERVIS, ESQ.</p> <p>15</p> <p>16 SARETSKY KATZ & DRANOFF LLP Attorneys for Defendant MARY DAVIS 475 Park Avenue South New York, New York 10016</p> <p>19 BY: ERIC DRANOFF, ESQ.</p> <p>20</p> <p>21 MENKEN SIMPSON & ROZGER LLP Attorneys for Defendant MARILYN BARTON 80 Pine Street 33rd Floor New York, New York 10005</p> <p>24 BY: BRUCE MENKEN, ESQ.</p> <p>25</p>	<p>4</p> <p>1</p> <p>2 F E D E R A L S T I P U L A T I O N S</p> <p>3</p> <p>4 IT IS HEREBY STIPULATED AND AGREED by and</p> <p>5 between the counsel for the respective parties</p> <p>6 herein that the sealing, filing and</p> <p>7 certification of the within deposition be</p> <p>8 waived; that the original of the deposition</p> <p>9 may be signed and sworn to by the witness</p> <p>10 before anyone authorized to administer an</p> <p>11 oath, with the same effect as if signed before</p> <p>12 a Judge of the Court; that an unsigned copy of</p> <p>13 the deposition may be used with the same force</p> <p>14 and effect as if signed by the witness, 30</p> <p>15 days after service of the original & 1 copy of</p> <p>16 same upon counsel for the witness.</p> <p>17</p> <p>18 IT IS FURTHER STIPULATED AND AGREED that</p> <p>19 all objections except as to form, are reserved</p> <p>20 to the time of trial.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>5</p> <p>1</p> <p>2 CYNTHIA GLASS, having been first</p> <p>3 duly sworn before a Notary Public of the State</p> <p>4 of New York was sworn and testified as</p> <p>5 follows:</p> <p>6 EXAMINATION BY</p> <p>7 MR. SELLS:</p> <p>8 Q. Please, state your name and address</p> <p>9 for the record.</p> <p>10 A. Cynthia Glass. 44 West 62nd Street,</p> <p>11 New York, New York 10023. Apartment 15C.</p> <p>12 Q. Good morning, Ms. Glass. My name is</p> <p>13 Derek Sells, and I am one of the attorneys</p> <p>14 who represents Marjorie Phillips in a lawsuit</p> <p>15 against F.I.T., Mary Davis and Marilyn</p> <p>16 Barton.</p> <p>17 We will be asking you some questions</p> <p>18 today concerning your involvement in</p> <p>19 complaints of discrimination and retaliation</p> <p>20 that Ms. Phillips brought against F.I.T.,</p> <p>21 Mary Davis and Marilyn Barton.</p> <p>22 My first question to you is, Are you</p> <p>23 able to understand questions that are asked</p> <p>24 of you today?</p> <p>25 A. Yes.</p>	<p>7</p> <p>1 C. GLASS</p> <p>2 A. I have a Bachelor's Degree in social</p> <p>3 science and economics; and a Master's Degree</p> <p>4 in labor and industrial relations; and a</p> <p>5 Doctorate Degree in educational technology.</p> <p>6 Q. When did you obtain these degrees?</p> <p>7 A. In 1988, was my Bachelor's Degree;</p> <p>8 1989, my Master's; and 2005, with my</p> <p>9 Doctorate.</p> <p>10 Q. When did you begin working at</p> <p>11 F.I.T.?</p> <p>12 A. April of 2019.</p> <p>13 Q. In what position were you hired to</p> <p>14 work at F.I.T.?</p> <p>15 A. My current position, Vice President</p> <p>16 of Human Resources Management and Labor</p> <p>17 Relations.</p> <p>18 Q. Where did you work before then?</p> <p>19 A. Henry Ford College.</p> <p>20 Q. For how long did you work for Henry</p> <p>21 Ford College?</p> <p>22 A. I believe, 19 years.</p> <p>23 Q. In what capacity?</p> <p>24 A. Vice President of Human Resources</p> <p>25 and Labor Relations.</p>
<p>6</p> <p>1 C. GLASS</p> <p>2 Q. So, you are not under the influence</p> <p>3 of any type of drug, narcotic or anything</p> <p>4 else that would affect your ability to</p> <p>5 understand and answer questions. Is that</p> <p>6 right?</p> <p>7 A. Correct.</p> <p>8 Q. So, if I ask you a question and you</p> <p>9 answer it, I will assume that you understood</p> <p>10 my question and you are answering my</p> <p>11 question. Is that fair enough?</p> <p>12 A. Yes.</p> <p>13 Q. If for any reason you do not</p> <p>14 understand a question I have asked you,</p> <p>15 please tell me and I will try to rephrase it</p> <p>16 so that you do understand it. Is that fair?</p> <p>17 A. Yes.</p> <p>18 Q. If you need to take a break, you can</p> <p>19 do so almost at any time. I will just ask</p> <p>20 that if there is a pending question, that you</p> <p>21 answer it before you take the break. Is that</p> <p>22 fair?</p> <p>23 A. Yes.</p> <p>24 Q. Ms. Glass, can you briefly go</p> <p>25 through your educational background?</p>	<p>8</p> <p>1 C. GLASS</p> <p>2 Q. Where is Henry Ford College?</p> <p>3 A. Dearborn, Michigan.</p> <p>4 Q. Why did you leave Henry Ford</p> <p>5 College?</p> <p>6 A. I was recruited to this position.</p> <p>7 Q. I understand you were recruited; but</p> <p>8 what made you leave?</p> <p>9 A. My husband had the opportunity to</p> <p>10 retire from the Michigan school system and</p> <p>11 look for employment in another state, so we</p> <p>12 jointly moved.</p> <p>13 Q. So, I take it your husband got</p> <p>14 employment in New York somewhere?</p> <p>15 A. Yes, he is employed in New York.</p> <p>16 Q. Where does he work?</p> <p>17 A. He is the Superintendent of</p> <p>18 Eastchester Union Free School District in</p> <p>19 Westchester County.</p> <p>20 Q. So, your husband works in education</p> <p>21 as well; is that right?</p> <p>22 A. Correct.</p> <p>23 Q. Is he still at Eastchester?</p> <p>24 A. Yes.</p> <p>25 Q. What schools are under Eastchester?</p>

<p>9</p> <p>1 C. GLASS</p> <p>2 A. Eastchester school is K-12 district.</p> <p>3 Q. Before Henry Ford College, where did</p> <p>4 you work?</p> <p>5 A. Owens State College in Toledo, Ohio.</p> <p>6 Q. How long did you work there?</p> <p>7 A. Approximately, five years.</p> <p>8 Q. In what capacity?</p> <p>9 A. Vice President of Human Resources.</p> <p>10 Q. Where did you work for Owens State?</p> <p>11 A. St. Clair County Community College</p> <p>12 in Port Huron, Michigan.</p> <p>13 Q. For how long?</p> <p>14 A. About 18 months.</p> <p>15 Q. In what capacity?</p> <p>16 A. Vice President of Human Resources</p> <p>17 and Labor Relations.</p> <p>18 Q. And before St. Claire?</p> <p>19 A. Marysville Public Schools.</p> <p>20 Q. You said "Marysville"?</p> <p>21 A. Marysville, one word.</p> <p>22 Q. How long did you work there?</p> <p>23 A. 10 years.</p> <p>24 Q. In what capacity?</p> <p>25 A. Director of Human Resources and</p>	<p>11</p> <p>1 C. GLASS</p> <p>2 A. Yes. My initial job out of graduate</p> <p>3 school was with the American Society of</p> <p>4 Employers.</p> <p>5 Q. And how long did you work there?</p> <p>6 A. Two years.</p> <p>7 Q. And in what capacity?</p> <p>8 A. Compensation analyst and research</p> <p>9 analyst.</p> <p>10 Q. Did you get fired from any job?</p> <p>11 A. No.</p> <p>12 Q. Each of the positions that you have</p> <p>13 just described to us, you were working for</p> <p>14 the employer; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. And as a professional who handles</p> <p>17 labor relations, one of the things that you</p> <p>18 have learned is that your primary job is</p> <p>19 loyalty to your employer; is that correct?</p> <p>20 MR. MELITO: Objection.</p> <p>21 MR. DRANOFF: Object to the</p> <p>22 form.</p> <p>23 Q. One of the other instructions is, If</p> <p>24 you hear the word "objection," you still have</p> <p>25 the answer the question.</p>
<p>10</p> <p>1 C. GLASS</p> <p>2 Labor Relations -- actually, I think it was</p> <p>3 closer to seven; it's been a while.</p> <p>4 Q. Before there where did you work?</p> <p>5 A. Blue Water Plastics.</p> <p>6 Q. Blue Water Plastics?</p> <p>7 A. Corporation -- no. Actually --</p> <p>8 actually, Thomas & Betts Corporation.</p> <p>9 Q. Did you work for both Thomas & --</p> <p>10 A. I did. I did. I worked for Thomas</p> <p>11 & Betts prior to St. Claire -- prior to</p> <p>12 Marysville.</p> <p>13 Q. Okay.</p> <p>14 A. And then prior to Thomas & Betts, I</p> <p>15 worked at Blue Water Plastics Corporation.</p> <p>16 Q. Okay.</p> <p>17 Do you know how long you worked at</p> <p>18 either or both of those?</p> <p>19 A. Thomas & Betts about a year; and</p> <p>20 Blue Water Plastics about three, four years.</p> <p>21 Q. Okay. In what capacity?</p> <p>22 A. Director of HR and Labor.</p> <p>23 Q. Have you had any other employment in</p> <p>24 the HR field besides the places you have just</p> <p>25 told us about?</p>	<p>12</p> <p>1 C. GLASS</p> <p>2 A. Can you repeat the question, please?</p> <p>3 (Whereupon, the requested</p> <p>4 portion of the transcript was read</p> <p>5 back.)</p> <p>6 MR. MELITO: Same objection.</p> <p>7 A. Yeah, I'm not sure what you mean by</p> <p>8 "loyalty."</p> <p>9 Q. When you hear the word "loyalty,"</p> <p>10 what do you think the word loyalty means?</p> <p>11 MR. MELITO: Objection.</p> <p>12 A. I'm employed and compensated to do --</p> <p>13 fulfill the responsibilities of the job.</p> <p>14 Q. No. No. No. That was not my</p> <p>15 question. My question was, What do you think</p> <p>16 "loyalty" means?</p> <p>17 MR. MELITO: Objection.</p> <p>18 A. To be true to something.</p> <p>19 Q. To be true to something.</p> <p>20 And when you think about being true</p> <p>21 to something, what is it that you mean?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. Sorry. I really do not understand</p> <p>24 what you're getting at here.</p> <p>25 Q. Well, you said what do you mean by</p>

<p style="text-align: right;">13</p> <p>1 C. GLASS</p> <p>2 loyalty? And so, I am asking you, When you</p> <p>3 hear the word "loyalty," what is your</p> <p>4 definition; and --</p> <p>5 A. Yeah --</p> <p>6 Q. -- you said, "to be true to</p> <p>7 something." So, I am asking you to clarify</p> <p>8 what does that mean, "to be true" to</p> <p>9 somebody. I'm just --</p> <p>10 MR. MELITO: Objection --</p> <p>11 Q. -- I'm just trying to get your</p> <p>12 definition.</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. To be responsible and loyal to</p> <p>15 something consistent with your own values</p> <p>16 and...</p> <p>17 Q. Is that your answer?</p> <p>18 A. Yeah. Again, I'm really not sure</p> <p>19 what you're trying to ask.</p> <p>20 Q. So, you don't really understand what</p> <p>21 it means to be loyal; is that what you're</p> <p>22 saying?</p> <p>23 MR. MELITO: Objection.</p> <p>24 I mean, is this a, you know,</p> <p>25 English language definition depo?</p>	<p style="text-align: right;">15</p> <p>1 C. GLASS</p> <p>2 objective. My primary objective is to</p> <p>3 fulfill the responsibilities of the job.</p> <p>4 Q. The job that is given to you by</p> <p>5 whom; who gives you the job?</p> <p>6 MR. MELITO: Objection.</p> <p>7 A. The employer.</p> <p>8 Q. The employer, right. And so the</p> <p>9 employer is hiring you to be loyal to the</p> <p>10 employer, right?</p> <p>11 MR. DRANOFF: Objection.</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. I am hired to do a job.</p> <p>14 Q. By the employer, right?</p> <p>15 A. By the employer.</p> <p>16 Q. And you serve the employer at the</p> <p>17 employer's will; is that correct?</p> <p>18 MR. DRANOFF: Objection.</p> <p>19 MR. MELITO: Objection.</p> <p>20 A. (No Response.)</p> <p>21 Q. Did you answer the question?</p> <p>22 A. Yes.</p> <p>23 Q. And you know that as part of your</p> <p>24 job, you're supposed to protect the employer</p> <p>25 from harm, correct?</p>
<p style="text-align: right;">14</p> <p>1 C. GLASS</p> <p>2 Like, what are we getting at here,</p> <p>3 Derek?</p> <p>4 MR. SELLS: I'm not going to go</p> <p>5 through what we went through the</p> <p>6 other day, Nicholas. So stop with</p> <p>7 the comments. Okay, stop. Just stop</p> <p>8 period.</p> <p>9 MR. MELITO: I will raise</p> <p>10 objections when necessary and add</p> <p>11 what I need to. Thank you.</p> <p>12 Q. Ms. Glass, what does it mean for you</p> <p>13 to be loyal --</p> <p>14 MR. MELITO: Objection --</p> <p>15 A. To be committed to something.</p> <p>16 Q. Got it.</p> <p>17 So, when I ask you as part of your</p> <p>18 job as an HR director as someone who deals</p> <p>19 with employee relations for the company that</p> <p>20 you work for, you understand that your</p> <p>21 primary job is to be loyal to your employer,</p> <p>22 correct?</p> <p>23 MR. DRANOFF: Objection.</p> <p>24 MR. MELITO: Objection.</p> <p>25 A. I don't think that is my primary</p>	<p style="text-align: right;">16</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 MR. DRANOFF: Join in the</p> <p>4 objection.</p> <p>5 A. I enforce policy and procedure, I am</p> <p>6 responsible for compliance. I'm responsible</p> <p>7 for fulfilling the responsibilities of my</p> <p>8 position.</p> <p>9 Q. And you do that in a way to protect</p> <p>10 the employer from harm, right?</p> <p>11 MR. DRANOFF: Objection to</p> <p>12 form.</p> <p>13 MR. MELITO: Objection.</p> <p>14 Derek, I really do not want to</p> <p>15 call --</p> <p>16 MR. SELLS: Stop. Do not even</p> <p>17 mention my name anymore.</p> <p>18 MR. MELITO: No.</p> <p>19 MR. SELLS: Nicholas, do not</p> <p>20 mention my name.</p> <p>21 MR. MELITO: She answered it</p> <p>22 five different ways. You're asking</p> <p>23 it a million different ways. I'm</p> <p>24 calling --</p> <p>25 MR. SELLS: Do not --</p>

<p style="text-align: right;">17</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: If you do not move</p> <p>3 on, I will have to call the court.</p> <p>4 MR. SELLS: Call the court now.</p> <p>5 Call the court now.</p> <p>6 MR. MELITO: I will.</p> <p>7 MR. SELLS: Go ahead.</p> <p>8 MR. MELITO: I have to you're</p> <p>9 just trying to put words --</p> <p>10 MR. SELLS: Go ahead. All</p> <p>11 right. All right. All right. Are</p> <p>12 we calling the court?</p> <p>13 MR. MELITO: Yeah.</p> <p>14 MR. SELLS: I'm off the record.</p> <p>15 MR. MELITO: This is on the</p> <p>16 record, Derek.</p> <p>17 MR. SELLS: Nope. Go ahead.</p> <p>18 Call the court, Nick. Go ahead.</p> <p>19 MR. MELITO: If you are going</p> <p>20 to continue.</p> <p>21 MR. SELLS: No. No. You going</p> <p>22 to call the court or not? Don't</p> <p>23 threaten, just call the court. Don't</p> <p>24 threaten. Don't waste my time with</p> <p>25 this nonsense.</p>	<p style="text-align: right;">19</p> <p>1 C. GLASS</p> <p>2 A. Yes.</p> <p>3 Q. Can you describe what the policy for</p> <p>4 F.I.T. discipline of employees what was it?</p> <p>5 MR. MELITO: Objection to the</p> <p>6 form.</p> <p>7 A. The disciplinary process is governed</p> <p>8 by the collective bargaining agreement.</p> <p>9 Q. Where?</p> <p>10 A. In Section 28 point 28 of the</p> <p>11 collective bargaining agreement.</p> <p>12 Q. What does it say?</p> <p>13 MR. MELITO: Objection.</p> <p>14 Go ahead.</p> <p>15 A. I'm sure that you have a copy. You</p> <p>16 could bring it up if you want me to review it</p> <p>17 with you.</p> <p>18 Q. No, just tell me. I want you to</p> <p>19 explain it.</p> <p>20 MR. DRANOFF: Objection to</p> <p>21 form.</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. So there is a process that was</p> <p>24 negotiated with the union regarding terms and</p> <p>25 provisions for the disciplinary process for</p>
<p style="text-align: right;">18</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: I'm trying not to</p> <p>3 waist everyone's team.</p> <p>4 MR. SELLS: What was the last</p> <p>5 question, Lesley?</p> <p>6 (Whereupon, the requested</p> <p>7 testimony read by the court reporter.)</p> <p>8 A. I protect the employer from</p> <p>9 liability and reduce risk.</p> <p>10 Q. Perfect.</p> <p>11 And some of the liability that the</p> <p>12 employer might face comes from lawsuits from</p> <p>13 employees, correct?</p> <p>14 MR. MELITO: Objection.</p> <p>15 A. Yes.</p> <p>16 Q. Now, the term you mentioned that</p> <p>17 you're responsible for enforcing certain</p> <p>18 policies of the employer; is that correct?</p> <p>19 A. Correct.</p> <p>20 Q. And one of those policies has to do</p> <p>21 with employee discipline; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. And in particular at F.I.T., when</p> <p>24 you joined in April of 2019, was there a</p> <p>25 policy of discipline at F.I.T.?</p>	<p style="text-align: right;">20</p> <p>1 C. GLASS</p> <p>2 work place infractions. It's basically</p> <p>3 informal until an infraction is egregious and</p> <p>4 charges are brought, served to the employee</p> <p>5 and a committee -- a joint labor management</p> <p>6 committee is formed to investigate and make</p> <p>7 recommendations to the president for final</p> <p>8 discipline.</p> <p>9 Q. Okay.</p> <p>10 So you are telling us that F.I.T.'s</p> <p>11 policy was to let the union decide</p> <p>12 discipline?</p> <p>13 MR. DRANOFF: Objection to</p> <p>14 form.</p> <p>15 Q. Is that right?</p> <p>16 A. No, there is a joint committee</p> <p>17 dictated by the collective bargaining</p> <p>18 agreement that if charges are brought, a</p> <p>19 joint committee of one management, one labor</p> <p>20 representative investigate and determine</p> <p>21 discipline, if charge are brought.</p> <p>22 Q. "If charges are brought"; is that</p> <p>23 what you said?</p> <p>24 A. Correct.</p> <p>25 Q. Well, who decides whether charges</p>

<p style="text-align: right;">21</p> <p>1 C. GLASS</p> <p>2 will be brought?</p> <p>3 A. I do in consultation with the union.</p> <p>4 Q. I see.</p> <p>5 So you are saying that F.I.T. cannot</p> <p>6 fire an employee who works for the union</p> <p>7 unless the union agrees to it; is that right?</p> <p>8 A. That is correct.</p> <p>9 Q. Really.</p> <p>10 And so, are you saying that F.I.T.'s</p> <p>11 policy is that if a unionized worker at</p> <p>12 F.I.T. punches someone in the face, that</p> <p>13 F.I.T. can't just fire them without the union</p> <p>14 saying, Hey, we agree with that; is that</p> <p>15 right?</p> <p>16 A. There is process for --</p> <p>17 Q. No. No. No, just answer my</p> <p>18 question. Is that right, if a unionized</p> <p>19 employee at F.I.T. punches another employee</p> <p>20 in the face, are you saying that F.I.T.</p> <p>21 cannot fire that employee on the spot unless</p> <p>22 you get union approval to --</p> <p>23 A. I can't --</p> <p>24 Q. -- file charges --</p> <p>25 A. I can't fire them on the spot,</p>	<p style="text-align: right;">23</p> <p>1 C. GLASS</p> <p>2 engaging the union.</p> <p>3 Q. Under what provision?</p> <p>4 A. The disciplinary process outlined in</p> <p>5 the collective bargaining agreement.</p> <p>6 Q. So, under F.I.T. -- I want to be</p> <p>7 clear. Under F.I.T.'s policy, a unionized</p> <p>8 employee at F.I.T. could come to work and</p> <p>9 shoot another F.I.T. employee with a gun,</p> <p>10 unprovoked, and F.I.T. could not fire that</p> <p>11 employee without getting approval from the</p> <p>12 union first; is that correct?</p> <p>13 MR. MELITO: Objection.</p> <p>14 MR. DRANOFF: Objection to</p> <p>15 form.</p> <p>16 MR. MELITO: As well.</p> <p>17 A. F.I.T. could not fire that person.</p> <p>18 Q. So am I to understand that under</p> <p>19 F.I.T.'s policy, an F.I.T. employee could</p> <p>20 walk into another F.I.T. employee's office,</p> <p>21 close and lock the door, rape that employee --</p> <p>22 viciously rape that employee and under F.I.T.</p> <p>23 policy the rapist could not be fired without</p> <p>24 the union's approval; is that right,</p> <p>25 Ms. Glass?</p>
<p style="text-align: right;">22</p> <p>1 C. GLASS</p> <p>2 period.</p> <p>3 MR. MELITO: Objection.</p> <p>4 Q. Excuse me. Excuse me. Excuse me.</p> <p>5 Can you just let me finish my question? Let</p> <p>6 me finish my question before you answer,</p> <p>7 okay. Because the court reporter, as good as</p> <p>8 she is, cannot take us both down at the same</p> <p>9 time. So you need to wait for me to finish</p> <p>10 my question.</p> <p>11 Now, my question is, Are you saying</p> <p>12 that under F.I.T. policy an F.I.T. employee</p> <p>13 can punch another F.I.T. employee in the face</p> <p>14 and that F.I.T. employee cannot be fired</p> <p>15 without union approval; is that correct?</p> <p>16 MR. MELITO: Objection.</p> <p>17 You may answer.</p> <p>18 A. I cannot fire someone without</p> <p>19 engaging in the process which involves the</p> <p>20 union.</p> <p>21 Q. I'm not asking about if you could</p> <p>22 fire. I'm asking about --</p> <p>23 A. F.I.T. F.I.T. --</p> <p>24 Q. -- if --</p> <p>25 A. F.I.T. cannot fire someone without</p>	<p style="text-align: right;">24</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection. Do not</p> <p>3 answer. Do not answer. Do not</p> <p>4 answer. I'm instructing the witness</p> <p>5 not to answer that outrageous,</p> <p>6 hypothetical as it has nothing to do</p> <p>7 with this case.</p> <p>8 You could move on.</p> <p>9 MR. SELLS: Okay. Let's call</p> <p>10 the court.</p> <p>11 MR. MELITO: You call it, it's</p> <p>12 your motion.</p> <p>13 MR. SELLS: I want a ruling.</p> <p>14 MR. MELITO: Go ahead and call</p> <p>15 the court. Call the court; it's your</p> <p>16 motion.</p> <p>17 (Whereupon, Mr. Sells calls the</p> <p>18 court at 10:33 a.m.)</p> <p>19 MR. SELLS: Yes, hi. This is</p> <p>20 Derek Sells calling in the matter of</p> <p>21 Marjorie Phillips versus the Fashion</p> <p>22 Institute of Technology.</p> <p>23 CHAMBER SECRETARY: Case</p> <p>24 number, please.</p> <p>25 MR. SELLS: It's 20-cv-00221.</p>

<p style="text-align: right;">25</p> <p>1 C. GLASS</p> <p>2 I'm taking a deposition of the</p> <p>3 witness for the Fashion Institute of</p> <p>4 Technology, and there has been an</p> <p>5 instruction by the lawyer for the</p> <p>6 witness not to answer the question.</p> <p>7 There has been no claim of privilege;</p> <p>8 but he is instructed her not to</p> <p>9 answer the question, and I would like</p> <p>10 to get a ruling.</p> <p>11 CHAMBER SECRETARY: The judge</p> <p>12 is not -- is not in at the moment. I</p> <p>13 think, you know -- did you call last</p> <p>14 week about this as well?</p> <p>15 MR. SELLS: Well, this is a --</p> <p>16 yes, we are in the midst of multiple</p> <p>17 depositions. This is a new</p> <p>18 deposition --</p> <p>19 CHAMBER SECRETARY: Let me give --</p> <p>20 I think you had spoken to my co-clerk</p> <p>21 about this last week.</p> <p>22 MR. SELLS: Yes.</p> <p>23 CHAMBER SECRETARY: I think she</p> <p>24 spoke with the judge about it --</p> <p>25 MR. SELLS: No. No. This is a</p>	<p style="text-align: right;">27</p> <p>1 C. GLASS</p> <p>2 much. Can he call me back please at</p> <p>3 347-683-1846.</p> <p>4 CHAMBER SECRETARY: 1846. And</p> <p>5 your name again?</p> <p>6 MR. SELLS: Derek, D-E-R-E-K.</p> <p>7 Last name is Sells, S-E-L-L-S.</p> <p>8 CHAMBER SECRETARY: All right.</p> <p>9 Thank you so much.</p> <p>10 MR. SELLS: Thanks, bye.</p> <p>11 CHAMBER SECRETARY: Bye.</p> <p>12 (Whereupon, the call to the</p> <p>13 court has ended at 10:36 a.m.)</p> <p>14 MR. SELLS: Please mark the</p> <p>15 question, Lesley.</p> <p>16 Q. Now, under F.I.T.'s policy, their</p> <p>17 disciplinary process, if an employee -- an</p> <p>18 F.I.T. employee, walked into an</p> <p>19 African-American -- let's say it's a</p> <p>20 Caucasian employee walks into an</p> <p>21 African-American's office and calls them a</p> <p>22 "fucking nigger," are you saying that F.I.T.</p> <p>23 could not fire that employee without first</p> <p>24 getting union approval?</p> <p>25 MR. MELITO: Objection.</p>
<p style="text-align: right;">26</p> <p>1 C. GLASS</p> <p>2 different -- it is same case,</p> <p>3 different ruling. So, there's been a --</p> <p>4 CHAMBER SECRETARY: Right. I</p> <p>5 think the ruling he made -- whatever</p> <p>6 he told you last week applies today.</p> <p>7 So I think it was something like</p> <p>8 sanction issue that should be</p> <p>9 addressed after the deposition.</p> <p>10 MR. SELLS: This is not a</p> <p>11 sanction issue. This is a question</p> <p>12 issue. I have asked the witness a</p> <p>13 question, and the attorney for F.I.T.</p> <p>14 has instructed the witness not to</p> <p>15 answer. And --</p> <p>16 CHAMBER SECRETARY: Well, sir,</p> <p>17 I think at this point, like I said,</p> <p>18 the judge stepped away for a moment --</p> <p>19 MR. SELLS: Well, can he call</p> <p>20 back because this is an important</p> <p>21 question, and I would like it to be</p> <p>22 answered.</p> <p>23 CHAMBER SECRETARY: I'll take a</p> <p>24 message down and leave it for him.</p> <p>25 MR. SELLS: Thank you, very</p>	<p style="text-align: right;">28</p> <p>1 C. GLASS</p> <p>2 Eric, you are on mute. I don't</p> <p>3 know if you know.</p> <p>4 MR. DRANOFF: I was objecting</p> <p>5 as well. Objection.</p> <p>6 A. The college must follow due process</p> <p>7 under the collective bargaining agreement.</p> <p>8 Q. What is due process under the</p> <p>9 agreement as far as you understand it?</p> <p>10 A. In situations that warrant charges,</p> <p>11 they are drafted, presented to the employee</p> <p>12 and the union and a committee is formed to</p> <p>13 complete an investigation who then make</p> <p>14 recommendations to the president for possible</p> <p>15 termination in egregious situations.</p> <p>16 Q. You talk about a process where</p> <p>17 charges are drafted and then sent to the</p> <p>18 employee and the union; is that correct?</p> <p>19 A. The union is copied on the charges</p> <p>20 sent to the employee.</p> <p>21 Q. All right.</p> <p>22 So in the first instance, under</p> <p>23 F.I.T.'s disciplinary policy are you saying</p> <p>24 that F.I.T. is responsible for drafting the</p> <p>25 charges and then sending them to the union?</p>

<p style="text-align: right;">29</p> <p>1 C. GLASS</p> <p>2 MR. DRANOFF: Objection to</p> <p>3 form.</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. Yes. As management, we're</p> <p>6 responsible for facilitating the process.</p> <p>7 Q. Got it.</p> <p>8 So am I to understand that if F.I.T.</p> <p>9 makes a determination not to draft charges,</p> <p>10 then an employee who would otherwise be</p> <p>11 subject to possible termination if the union</p> <p>12 and F.I.T. agreed to it would not have to</p> <p>13 face possible termination; is that right?</p> <p>14 MR. MELITO: Objection.</p> <p>15 A. I'm not -- I don't understand the</p> <p>16 question.</p> <p>17 Q. Okay.</p> <p>18 Well, we're talking about</p> <p>19 termination, right; where charges have to be</p> <p>20 drafted or there has to be this due process</p> <p>21 as you referred to it where the union has an</p> <p>22 opportunity, the employee has an opportunity</p> <p>23 to respond to the charges before a</p> <p>24 termination can occur; is that what we have</p> <p>25 been talking about?</p>	<p style="text-align: right;">31</p> <p>1 C. GLASS</p> <p>2 in HR that decides whether or not an employee</p> <p>3 will face charges, correct?</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. I review the case and consult with</p> <p>6 the union and talk about appropriate action</p> <p>7 that both parties, because we are both</p> <p>8 involved in the disciplinary process, believe</p> <p>9 could resolve the issue.</p> <p>10 Q. Let's say you have this informal</p> <p>11 talk and at the end of the day it's still</p> <p>12 your decision whether to press charges. If</p> <p>13 you disagree with the union or you think</p> <p>14 strongly enough about the issue that is</p> <p>15 involved with the employee -- the unionized</p> <p>16 employee, then you still can submit charges</p> <p>17 to be considered; is that correct?</p> <p>18 MR. MELITO: Objection.</p> <p>19 A. Correct.</p> <p>20 Q. And even after you submit charges,</p> <p>21 if there is still a disagreement, then you</p> <p>22 could insist that an arbitrator be involved</p> <p>23 in the case, listen to both sides and make a</p> <p>24 determination about whether the employee</p> <p>25 should lose their job or not; isn't that</p>
<p style="text-align: right;">30</p> <p>1 C. GLASS</p> <p>2 A. Correct.</p> <p>3 Q. And so my question to you is, If</p> <p>4 there are no charges, if F.I.T. decides, Hey,</p> <p>5 we are not going to go down that route of</p> <p>6 termination, so we're not going to draft</p> <p>7 charges for termination to be considered.</p> <p>8 Then isn't it true that that employee will</p> <p>9 not face the possibility of termination if</p> <p>10 F.I.T. does not submit charges; is that</p> <p>11 correct?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. There are still opportunities for</p> <p>14 discipline at an informal or a level where</p> <p>15 the college believes that there could be a</p> <p>16 resolution to the issue.</p> <p>17 Q. I'm not talking about discipline.</p> <p>18 I'm talking now in general. I'm talking now</p> <p>19 about termination. Am I correct that if</p> <p>20 F.I.T. does not submit charges against an</p> <p>21 F.I.T. unionized employee, that that employee</p> <p>22 will not face the possibility of termination?</p> <p>23 A. For that offense, correct --</p> <p>24 MR. MELITO: Objection.</p> <p>25 Q. So in the first instance, it's you</p>	<p style="text-align: right;">32</p> <p>1 C. GLASS</p> <p>2 right?</p> <p>3 MR. MELITO: Objection.</p> <p>4 A. The college does not engage an</p> <p>5 arbitrator.</p> <p>6 Q. Well, when you say the college does</p> <p>7 not engage an arbitrator --</p> <p>8 A. No, the process --</p> <p>9 Q. -- what do you mean? Go ahead.</p> <p>10 A. The process is such that an</p> <p>11 arbitrator would come in if the union and the</p> <p>12 college -- if the college took action and the</p> <p>13 union disagreed.</p> <p>14 Q. Right.</p> <p>15 So that's when the arbitrator comes</p> <p>16 in and makes the decision between the union</p> <p>17 and F.I.T., right?</p> <p>18 A. Well, makes a decision on the case,</p> <p>19 the facts of the case.</p> <p>20 Q. I know. But if the union and the</p> <p>21 college both agreed, there is no need for an</p> <p>22 arbitrator; is that right?</p> <p>23 A. It would not go to the arbitration.</p> <p>24 Q. Right.</p> <p>25 The only time it goes to arbitration</p>

<p style="text-align: right;">33</p> <p>1 C. GLASS</p> <p>2 is if there is a disagreement between F.I.T.</p> <p>3 and the union; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 So when you just said that the only</p> <p>7 way someone could get fired from F.I.T. is if</p> <p>8 F.I.T. and the union agreed, that is not true --</p> <p>9 A. That's not what I said --</p> <p>10 MR. MELITO: Objection.</p> <p>11 Please, Ms. Glass -- Dr. Glass,</p> <p>12 if you could just pause so I could</p> <p>13 state my objection; but you can</p> <p>14 answer.</p> <p>15 A. That is not what I said. That's</p> <p>16 what you are trying to make me say.</p> <p>17 Q. Well, I thought you said that you</p> <p>18 cannot have a termination without union</p> <p>19 approval. I thought that's what you said.</p> <p>20 Am I mistaken on that?</p> <p>21 MR. MELITO: Objection.</p> <p>22 A. I think you keep changing the</p> <p>23 question.</p> <p>24 Q. Can you just answer the question,</p> <p>25 please?</p>	<p style="text-align: right;">35</p> <p>1 C. GLASS</p> <p>2 Q. -- just answer my question. Wasn't</p> <p>3 that your answer?</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. I'm not understanding your line of</p> <p>6 questioning, and therefore I feel like you</p> <p>7 have pressured me into saying something that</p> <p>8 is -- is not accurate.</p> <p>9 Q. You have been pressured? Really?</p> <p>10 Okay. What kind of pressure? What kind of</p> <p>11 pressure are you under?</p> <p>12 MR. MELITO: Objection.</p> <p>13 She raised your harassing,</p> <p>14 mischaracterization as an issue. No</p> <p>15 other pressure but your tactics in</p> <p>16 your deposition questioning --</p> <p>17 MR. SELLS: Wow --</p> <p>18 MR. MELITO: Again, your --</p> <p>19 Q. So, have you used the word</p> <p>20 harassment? Have you used the word</p> <p>21 harassment today? Ms. Glass --</p> <p>22 MR. MELITO: Objection --</p> <p>23 Q. -- have you used the word harassment</p> <p>24 today?</p> <p>25 A. I have not.</p>
<p style="text-align: right;">34</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 A. What is your current question?</p> <p>4 (Whereupon, the requested</p> <p>5 portion of the transcript was read</p> <p>6 back.)</p> <p>7 MR. MELITO: I will raise the</p> <p>8 same objection.</p> <p>9 A. An employee who goes through the</p> <p>10 disciplinary process can be terminated and</p> <p>11 the union can challenge that via arbitration.</p> <p>12 Q. Well, that's not what you said</p> <p>13 earlier, right? Didn't you say earlier that</p> <p>14 there is no possibility of an employee being</p> <p>15 fired unless the union agreed to it?</p> <p>16 MR. MELITO: Objection.</p> <p>17 Q. Now, you heard me ask those</p> <p>18 questions whether someone punches someone in</p> <p>19 the face or someone shoots someone or someone</p> <p>20 calls someone the N word. You heard those</p> <p>21 questions and you said, "No, I can't do</p> <p>22 anything without the union approval." Isn't</p> <p>23 that what your answers were to all of those</p> <p>24 scenarios?</p> <p>25 MR. MELITO: Objection --</p>	<p style="text-align: right;">36</p> <p>1 C. GLASS</p> <p>2 Q. No. I got it. Okay. I'm just</p> <p>3 clear -- I just wondered where that word came</p> <p>4 from --</p> <p>5 MR. MELITO: It's an objection --</p> <p>6 Q. You have not mentioned it, but</p> <p>7 someone else has --</p> <p>8 MR. MELITO: It's an objection,</p> <p>9 a legal objection.</p> <p>10 Q. So, Ms. Glass how is it that you</p> <p>11 don't understand my line of questioning --</p> <p>12 MR. MELITO: Let me state my</p> <p>13 objection -- my legal objection based</p> <p>14 on your demeanor in the deposition.</p> <p>15 It is harassing underneath Federal</p> <p>16 Rules of Professional Conduct Civil</p> <p>17 Procedure just to clarify where</p> <p>18 "harassing" came from.</p> <p>19 MR. SELLS: So that's from you?</p> <p>20 MR. MELITO: Yes. It's an</p> <p>21 objection to your behavior and</p> <p>22 conduct --</p> <p>23 MR. SELLS: Got it --</p> <p>24 MR. MELITO: -- in this</p> <p>25 deposition. Again --</p>

<p style="text-align: right;">37</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: Great. Beautiful.</p> <p>3 Q. Ms. Glass, you say that you are</p> <p>4 confused about the line of questioning. And</p> <p>5 I said right before we started that if you do</p> <p>6 not understand a question that I have asked</p> <p>7 you should tell me. Okay --</p> <p>8 A. I have --</p> <p>9 Q. Now, you're saying that -- now,</p> <p>10 you're objecting to a line of questions that</p> <p>11 have already been asked. So now you're</p> <p>12 saying you don't understand; is that correct?</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. (No response.)</p> <p>15 Q. Go ahead.</p> <p>16 A. (No response.)</p> <p>17 Q. Can you answer the question?</p> <p>18 A. (No response.)</p> <p>19 Q. Are you refusing to answer the</p> <p>20 question? Are you answering the question?</p> <p>21 I'm trying to see what you're doing here,</p> <p>22 Ms. Glass, 'cause I'm --</p> <p>23 A. I guess I'm not sure that I can</p> <p>24 answer your questions because they are very</p> <p>25 confusing and --</p>	<p style="text-align: right;">39</p> <p>1 C. GLASS</p> <p>2 should be terminated, then F.I.T. could still</p> <p>3 fire that employee and allow for an</p> <p>4 arbitration to take place; is that correct?</p> <p>5 MR. DRANOFF: Objection to</p> <p>6 form.</p> <p>7 MR. MELITO: Objection.</p> <p>8 A. Correct.</p> <p>9 Q. So, it would not be accurate to say</p> <p>10 that F.I.T. could only fire someone if the</p> <p>11 union gives them permission; is that right?</p> <p>12 MR. MELITO: Objection.</p> <p>13 You may answer.</p> <p>14 A. I never answered your question</p> <p>15 regarding permission. There is a process</p> <p>16 dictated by the contract that the college and</p> <p>17 the union must go through.</p> <p>18 Q. To the best of your knowledge that</p> <p>19 process is if F.I.T. wants to fire someone,</p> <p>20 F.I.T. can fire a unionized employee and then</p> <p>21 the employee, if they object to the</p> <p>22 termination, can, if they want, arbitrate?</p> <p>23 A. The union cannot -- the college</p> <p>24 cannot fire someone without going through the</p> <p>25 joint labor management process. That's where</p>
<p style="text-align: right;">38</p> <p>1 C. GLASS</p> <p>2 Q. Very confusing --</p> <p>3 A. Yeah, and there are multiple</p> <p>4 objections to the questions; so therefore it</p> <p>5 tells me that there are issues with your</p> <p>6 questions.</p> <p>7 Q. The objections tell you -- the</p> <p>8 objections tell you that there are issues</p> <p>9 with my questions; is that correct --</p> <p>10 MR. MELITO: Objection.</p> <p>11 She's telling you there are</p> <p>12 issues with your questioning.</p> <p>13 Q. Please, answer the question.</p> <p>14 A. There are issues with your</p> <p>15 questions.</p> <p>16 Q. Okay.</p> <p>17 So as we go forward, you tell me</p> <p>18 before, before you answer the question what</p> <p>19 the issue is so I could help you to better</p> <p>20 understand. Okay?</p> <p>21 MR. MELITO: Objection.</p> <p>22 A. Okay.</p> <p>23 Q. All right.</p> <p>24 So, if the union and F.I.T.</p> <p>25 disagreed on whether a unionized employee</p>	<p style="text-align: right;">40</p> <p>1 C. GLASS</p> <p>2 your question was leading and did not allow</p> <p>3 me to answer the question.</p> <p>4 Q. I didn't allow you to answer the</p> <p>5 question; is that right? Is that what you're</p> <p>6 saying?</p> <p>7 MR. MELITO: Objection.</p> <p>8 A. (No Response.)</p> <p>9 Q. I just want to be clear. You're</p> <p>10 saying I did not allow you to answer the</p> <p>11 question; is that what you're saying?</p> <p>12 MR. MELITO: Same objection.</p> <p>13 A. (No Response.)</p> <p>14 Q. You can answer.</p> <p>15 A. Your questions are leading and</p> <p>16 forcing an answer that you want instead of</p> <p>17 allowing me to provide the facts of the case.</p> <p>18 Q. Is that your answer?</p> <p>19 A. That's my answer.</p> <p>20 Q. Got it.</p> <p>21 So, if F.I.T. could in fact fire an</p> <p>22 employee who it believed -- under the union</p> <p>23 contract -- if it believed that that employee</p> <p>24 acted in a racially offensive manner; is that</p> <p>25 right?</p>

<p style="text-align: right;">41</p> <p>1 C. GLASS</p> <p>2 A. If there was an investigation, a</p> <p>3 joint labor management committee, an</p> <p>4 investigation and recommendation to the</p> <p>5 president for termination.</p> <p>6 Q. Is that a joint recommendation that</p> <p>7 you're talking about?</p> <p>8 A. It is.</p> <p>9 Q. What about if it is not a joint</p> <p>10 recommendation? What about if the union says</p> <p>11 no and F.I.T. says, you know, we still want</p> <p>12 to fire person?</p> <p>13 A. A committee may not agree and submit</p> <p>14 independent statements to the president and</p> <p>15 the president ultimately makes the decision</p> <p>16 based on the case.</p> <p>17 Q. Got it.</p> <p>18 So, in fact, F.I.T. and the union do</p> <p>19 not have to agree in order for an F.I.T.</p> <p>20 unionized employee to be fired, right?</p> <p>21 A. Correct.</p> <p>22 Q. So, you as an HR director that</p> <p>23 drives whether or not an F.I.T. employee gets</p> <p>24 fired, if you believe strongly enough that</p> <p>25 that employee should be fired, you could take</p>	<p style="text-align: right;">43</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 A. I don't make that in a vacuum; so,</p> <p>4 no. I don't agree with that statement.</p> <p>5 Q. Well, does someone outrank you on</p> <p>6 the determination about whether to seek</p> <p>7 charges for a unionized employee to be</p> <p>8 terminated?</p> <p>9 A. So -- again, I'm trying to</p> <p>10 understand your question.</p> <p>11 MR. SELLS: Can you repeat the</p> <p>12 question.</p> <p>13 Q. And just tell me -- when you listen</p> <p>14 to the question tell me what about the</p> <p>15 question you do not understand.</p> <p>16 (Whereupon, the requested</p> <p>17 portion of the transcript was read</p> <p>18 back.)</p> <p>19 A. So you're differentiating in the</p> <p>20 process; because ultimately the president</p> <p>21 determines what the discipline is. You are</p> <p>22 differentiating about my role; is that</p> <p>23 correct?</p> <p>24 Q. Did you hear the question? My</p> <p>25 question was, Does anyone outrank you at</p>
<p style="text-align: right;">42</p> <p>1 C. GLASS</p> <p>2 it all the way to the top, right?</p> <p>3 A. If the facts of the case warrant</p> <p>4 that.</p> <p>5 Q. So, your answer is yes, right?</p> <p>6 A. I can.</p> <p>7 Q. Got it.</p> <p>8 So F.I.T.'s disciplinary process as</p> <p>9 it relates to unionized employees and whether</p> <p>10 or not they get terminated rests with you and</p> <p>11 your decisionmaking about whether to press</p> <p>12 the charges against that employee; is it fair</p> <p>13 to say?</p> <p>14 MR. MELITO: Objection.</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 Who else is it apply to at F.I.T.?</p> <p>18 A. I consult with many people to make a</p> <p>19 fair determination about appropriate possible</p> <p>20 discipline. My ultimate goal is resolution</p> <p>21 of the problem.</p> <p>22 Q. I understand you consult with many</p> <p>23 people, but at the end of the day it is your</p> <p>24 choice whether to seek charges against the</p> <p>25 unionized employee or not; is that correct?</p>	<p style="text-align: right;">44</p> <p>1 C. GLASS</p> <p>2 F.I.T. on making the determination of whether</p> <p>3 to seek charges for an employee to be</p> <p>4 terminated? Does someone have more authority</p> <p>5 than you as it relates to union employees?</p> <p>6 MR. MELITO: Objection.</p> <p>7 A. It's ultimately my responsibility.</p> <p>8 Q. Got it.</p> <p>9 What is the purpose -- under</p> <p>10 F.I.T.'s disciplinary process, what is the</p> <p>11 purpose for it?</p> <p>12 MR. MELITO: Objection.</p> <p>13 MR. DRANOFF: Objection to the</p> <p>14 form.</p> <p>15 A. The disciplinary process was</p> <p>16 negotiated. I was not there when it was</p> <p>17 negotiated, so I can only assume the intent</p> <p>18 is to ensure resolution of issues in the</p> <p>19 workplace.</p> <p>20 Q. What is the definition of discipline</p> <p>21 as relates to F.I.T.'s workplace?</p> <p>22 MR. DRANOFF: Object to the</p> <p>23 form.</p> <p>24 MR. MELITO: Objection.</p> <p>25 A. You're asking what the purpose of</p>

<p style="text-align: right;">45</p> <p>1 C. GLASS</p> <p>2 discipline is?</p> <p>3 Q. I'm asking what the definition of</p> <p>4 discipline is.</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. I believe it is defined within the</p> <p>7 contract in Section 28 that discipline in</p> <p>8 terms of written warnings, suspension,</p> <p>9 termination may occur for issues of</p> <p>10 performance, misconduct.</p> <p>11 Q. That's the definition as far as you</p> <p>12 recall?</p> <p>13 A. We could look at the contract</p> <p>14 language. I believe that is a summary of it,</p> <p>15 yes.</p> <p>16 Q. As it relates to why discipline</p> <p>17 imposed for those things -- misconduct,</p> <p>18 performance issues, whether it's suspension</p> <p>19 or termination -- what's the point of it for</p> <p>20 F.I.T.? Why is it there --</p> <p>21 A. To resolve --</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. To stop the behavior.</p> <p>24 Q. Stop the behavior. Okay.</p> <p>25 In terms of investigating issues of</p>	<p style="text-align: right;">47</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 A. I think "discipline" is a</p> <p>4 contentious issue.</p> <p>5 Q. And is it true that the longer the</p> <p>6 issue remains open the more contention, the</p> <p>7 more tension in general it can cause?</p> <p>8 MR. MELITO: Objection.</p> <p>9 A. Depends on the situation.</p> <p>10 Q. Okay.</p> <p>11 Well, tell me a situation where you</p> <p>12 think it could cause ongoing tension when it</p> <p>13 is not dealt with in a quick manner.</p> <p>14 MR. DRANOFF: Object to the</p> <p>15 form.</p> <p>16 MR. MELITO: Objection.</p> <p>17 And this is outside the scope,</p> <p>18 so this would be in Dr. Glass's</p> <p>19 personal capacity, not as a 30(b) (6) .</p> <p>20 A. If discipline is -- if the process</p> <p>21 of the discipline is not -- the length of the</p> <p>22 process can cause disruption and stress to</p> <p>23 the parties involved.</p> <p>24 Q. That is especially true if there are</p> <p>25 two F.I.T. employees involved, one complained</p>
<p style="text-align: right;">46</p> <p>1 C. GLASS</p> <p>2 potential discipline, how quickly is that</p> <p>3 supposed to be done?</p> <p>4 A. As soon as possible.</p> <p>5 Q. Why is that?</p> <p>6 A. In order to understand what</p> <p>7 happened, so that memories of those who</p> <p>8 observed things or were involved are clear</p> <p>9 and documented.</p> <p>10 Q. Is there a concern at F.I.T., as it</p> <p>11 implements it's disciplinary process, that an</p> <p>12 employee who is accused of something or who</p> <p>13 has potential discipline looming over their</p> <p>14 head that it be resolved as quickly as</p> <p>15 possible?</p> <p>16 A. That is our goal.</p> <p>17 Q. And why, why don't you want issues</p> <p>18 of discipline hanging over an F.I.T.</p> <p>19 employee's head for an extended period of</p> <p>20 time?</p> <p>21 A. It's a disruption to all parties.</p> <p>22 Q. And in terms of the disruption when</p> <p>23 you have this aura of discipline hanging over</p> <p>24 someone's head, is that something that could</p> <p>25 cause tension?</p>	<p style="text-align: right;">48</p> <p>1 C. GLASS</p> <p>2 against the other, and they have to work</p> <p>3 together on a daily basis; isn't that</p> <p>4 correct?</p> <p>5 MR. MELITO: Objection.</p> <p>6 Outside the scope of the 30(b) (6) .</p> <p>7 Objection to form.</p> <p>8 She may answer in her personal</p> <p>9 capacity.</p> <p>10 MR. DRANOFF: Objection to form</p> <p>11 as well.</p> <p>12 A. My experience has been to ensure</p> <p>13 that both parties are able to either continue</p> <p>14 work together or provisions are made so that</p> <p>15 they do not have to encounter each other</p> <p>16 unless absolutely necessary.</p> <p>17 Again, discipline is a process.</p> <p>18 Q. When you say discipline is a</p> <p>19 process; what do you mean by that?</p> <p>20 MR. MELITO: Objection.</p> <p>21 Outside the scope of the</p> <p>22 30(b) (6) . I will note for the record</p> <p>23 that, Derek Sells only noted that</p> <p>24 this deposition as a 30(b) (6); and in</p> <p>25 her personal capacity, she may</p>

<p style="text-align: right;">49</p> <p>1 C. GLASS</p> <p>2 answer.</p> <p>3 Q. Can you answer the question, please?</p> <p>4 A. Please repeat the question.</p> <p>5 (Whereupon, the requested</p> <p>6 portion of the transcript was read</p> <p>7 back.)</p> <p>8 A. When there is an offense, there is a</p> <p>9 process of investigation of review that</p> <p>10 determines what the outcome will be.</p> <p>11 Q. And as part of F.I.T.'s disciplinary</p> <p>12 process is -- and this relates to complaints</p> <p>13 of discrimination from one F.I.T. employee</p> <p>14 against another or maybe multiple -- what</p> <p>15 steps is F.I.T. supposed to take in a</p> <p>16 situation where the complaint maker who is an</p> <p>17 F.I.T. employee makes a race discrimination</p> <p>18 complaint against another F.I.T. employee and</p> <p>19 they work in the same office? What is the</p> <p>20 process for F.I.T. to determine whether or</p> <p>21 not these two can continue working together</p> <p>22 while the complaint is being investigated to</p> <p>23 ensure that the tension as you talked about</p> <p>24 and stress and disruption does not affect the</p> <p>25 workplace?</p>	<p style="text-align: right;">51</p> <p>1 C. GLASS</p> <p>2 investigation is open, as we just talked</p> <p>3 about, you have an employee who's had a</p> <p>4 complaint made against them that could end up</p> <p>5 in a disciplinary setting; isn't that right?</p> <p>6 A. It could.</p> <p>7 Q. And that causes stress and</p> <p>8 disruption the longer it takes for that</p> <p>9 situation, that complaint to be resolved,</p> <p>10 correct?</p> <p>11 MR. MELITO: Objection.</p> <p>12 This is in her personal</p> <p>13 capacity outside the scope of the</p> <p>14 30(b)(6). Objection to form.</p> <p>15 I'll also note for the record</p> <p>16 that this witness is only -- was only</p> <p>17 designated to speak about the</p> <p>18 following 30(b)(6) topics, employee</p> <p>19 discipline and then employee</p> <p>20 upgrades; everything outside is</p> <p>21 outside the scope of the 30(b)(6).</p> <p>22 A. I believe what you are referring to</p> <p>23 is when -- when there is a complaint, who</p> <p>24 decides the timeline or the circumstances</p> <p>25 during the investigation?</p>
<p style="text-align: right;">50</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 A. Decisions regarding discrimination</p> <p>4 complaints are not within my purview; so I</p> <p>5 don't make those decisions about the</p> <p>6 individuals involved in that issue.</p> <p>7 Q. I'm sorry. You just said that --</p> <p>8 A. Race --</p> <p>9 Q. -- decisions related to race</p> <p>10 complaints do not fall under your purview; is</p> <p>11 that what you said?</p> <p>12 A. The investigation. So if there is a</p> <p>13 complaint, it would go to the Title 9 officer</p> <p>14 who would do the investigation.</p> <p>15 If the investigation warranted</p> <p>16 discipline, it would come back to me for</p> <p>17 discipline.</p> <p>18 Q. Right.</p> <p>19 Well, isn't that part of the</p> <p>20 disciplinary process when someone is accused</p> <p>21 of violating policy of F.I.T. that it could</p> <p>22 end up being a disciplinary matter?</p> <p>23 A. Yeah, it could.</p> <p>24 Q. Right.</p> <p>25 And so, as long as that</p>	<p style="text-align: right;">52</p> <p>1 C. GLASS</p> <p>2 Q. That's not what I am asking.</p> <p>3 A. Then I need you to be more clear.</p> <p>4 MR. SELLS: Can you repeat my</p> <p>5 question.</p> <p>6 Q. Please listen to my question.</p> <p>7 (Whereupon, the requested</p> <p>8 portion of the transcript was read</p> <p>9 back.)</p> <p>10 Q. Did you get the question now, or do</p> <p>11 you need me to repeat it?</p> <p>12 A. Please repeat it.</p> <p>13 Q. Okay.</p> <p>14 So as part of a potential</p> <p>15 disciplinary action under F.I.T.'s policy, if</p> <p>16 an employee has a complaint made against them</p> <p>17 by another employee that they have acted in</p> <p>18 either a discriminatory or retaliatory</p> <p>19 fashion that that employee could face</p> <p>20 discipline; is that correct?</p> <p>21 MR. DRANOFF: Object to the</p> <p>22 form.</p> <p>23 A. If there is a complaint, an employee</p> <p>24 could face discipline.</p> <p>25 Q. Right.</p>

<p>53</p> <p>1 C. GLASS</p> <p>2 And in a situation where there is a</p> <p>3 complaint of discrimination and/or</p> <p>4 retaliation based on the complaint of</p> <p>5 discrimination, you indicated in the first</p> <p>6 instance that it is the Title 9 coordinator</p> <p>7 or the Affirmative Action person that would</p> <p>8 investigate; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And during that investigation the</p> <p>11 employee who has had the complaint made</p> <p>12 against them understands that there is</p> <p>13 possible discipline if during the course of</p> <p>14 the investigation it is determined that they</p> <p>15 either discriminated or retaliated; is that</p> <p>16 right?</p> <p>17 MR. MELITO: Objection.</p> <p>18 A. I don't know that I can speak for</p> <p>19 every employee's reaction or understanding.</p> <p>20 Q. So, there is an employee manual at</p> <p>21 F.I.T.; is there not?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. There is a collective bargaining</p> <p>24 agreement.</p> <p>25 Q. But there is also an employee manual</p>	<p>55</p> <p>1 C. GLASS</p> <p>2 So an employee who is now accused of</p> <p>3 discriminating and/or retaliating against</p> <p>4 someone based on race or complaints of racism</p> <p>5 understands that if they are found as part of</p> <p>6 the investigation to have committed one or</p> <p>7 the other violation, they can be disciplined</p> <p>8 up to and including termination, right?</p> <p>9 MR. MELITO: Objection.</p> <p>10 A. If they understand the policy.</p> <p>11 Q. Well, F.I.T. makes sure that the</p> <p>12 employees that work for the college sign an</p> <p>13 acknowledgement that they have received the</p> <p>14 manual; isn't that right?</p> <p>15 A. Yeah, that's --</p> <p>16 MR. MELITO: Objection.</p> <p>17 Q. So, now if an employee receives the</p> <p>18 manual, they understand that they are subject</p> <p>19 to possible discipline because one of their</p> <p>20 colleagues made a complaint of racism against</p> <p>21 them and they work together. The longer that</p> <p>22 situation, that investigation is open, the</p> <p>23 more stressful it could be for these two</p> <p>24 employees to work together; isn't that</p> <p>25 correct?</p>
<p>54</p> <p>1 C. GLASS</p> <p>2 at F.I.T.; is there not?</p> <p>3 A. Yes.</p> <p>4 MR. MELITO: Objection.</p> <p>5 Q. And in the F.I.T. employee manual,</p> <p>6 it says that discrimination and retaliation --</p> <p>7 discrimination based on race as well as</p> <p>8 retaliating against an employee who makes a</p> <p>9 complaint about race is subject to</p> <p>10 discipline, right --</p> <p>11 MR. DRANOFF: Objection --</p> <p>12 Q. -- up to and including termination,</p> <p>13 right?</p> <p>14 MR. MELITO: Objection.</p> <p>15 A. F.I.T. has a policy, a</p> <p>16 non-discrimination policy.</p> <p>17 Q. And an employee who violates that</p> <p>18 policy can be terminated; is that correct?</p> <p>19 A. May be terminated.</p> <p>20 Q. Right.</p> <p>21 And that is told to the employee in</p> <p>22 the employee's manual, correct?</p> <p>23 MR. MELITO: Objection.</p> <p>24 A. It is stated in the manual.</p> <p>25 Q. Right.</p>	<p>56</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form</p> <p>3 and also, again, I object this is</p> <p>4 outside the scope of the 30(b)(6).</p> <p>5 She may answer in her personal</p> <p>6 capacity.</p> <p>7 A. I think it depends on the people</p> <p>8 involved whether they knew the complaint</p> <p>9 existed, what their relationship was;</p> <p>10 multiple factors that would contribute or not</p> <p>11 to stress.</p> <p>12 Q. So my point, my question is, Because</p> <p>13 there's this possibility of a very stressful</p> <p>14 and disruptive working environment where you</p> <p>15 have one employee making a discrimination</p> <p>16 complaint against another employee, they work</p> <p>17 together in the same office; what does F.I.T.</p> <p>18 under it's disciplinary policy, what steps</p> <p>19 does it take to ensure that those two</p> <p>20 employees working together while this</p> <p>21 potential disciplinary issue gets resolved,</p> <p>22 what does F.I.T. do to ensure that the</p> <p>23 relationship between those two employees does</p> <p>24 not get inflamed to the point where a</p> <p>25 confrontation or some other issue might</p>

<p style="text-align: right;">57</p> <p>1 C. GLASS</p> <p>2 occur?</p> <p>3 MR. MELITO: Objection to form</p> <p>4 and also object to outside the scope</p> <p>5 of the 30(b)(6).</p> <p>6 A. Again, I -- I -- I think that it</p> <p>7 depends on the relationship, the supervisors</p> <p>8 who observed the two interactions and whether</p> <p>9 the employee even knows that there was a</p> <p>10 complaint filed against them. I don't even</p> <p>11 know that.</p> <p>12 Q. My question is, What is F.I.T.'s</p> <p>13 policy; what does F.I.T. do to make sure that</p> <p>14 things are okay between these two employees</p> <p>15 as the investigation is ongoing?</p> <p>16 A. I think that's a matter --</p> <p>17 MR. MELITO: Object. I'm</p> <p>18 sorry. Let me just object. This is</p> <p>19 outside the scope of the 30(b)(6).</p> <p>20 You may answer in your personal</p> <p>21 capacity.</p> <p>22 A. It would depend on the circumstances</p> <p>23 of the situation, the relationship and any</p> <p>24 observed, you know, issues that were -- that</p> <p>25 were observed.</p>	<p style="text-align: right;">59</p> <p>1 C. GLASS</p> <p>2 Q. So if I understand your answer</p> <p>3 correctly, F.I.T.'s policy is a wait and see</p> <p>4 policy and until there is some disruption or</p> <p>5 some discord between the complainant and the</p> <p>6 person who has been complained about, F.I.T.</p> <p>7 will take no action and assume that</p> <p>8 everything is okay; is that right?</p> <p>9 MR. MELITO: Objection to form,</p> <p>10 and also objection to outside the</p> <p>11 scope of the 30(b)(6). She can</p> <p>12 answer in her personal capacity.</p> <p>13 A. Yeah, I don't believe that it is a</p> <p>14 wait and see until that is problem. Again,</p> <p>15 every situation is different.</p> <p>16 Q. Well, tell me a situation under</p> <p>17 F.I.T.'s policy where they wouldn't wait and</p> <p>18 see and that they would take some affirmative</p> <p>19 step if one person made a race complaint</p> <p>20 against another and yet they worked in the</p> <p>21 same office space; what would F.I.T. do other</p> <p>22 than wait and see?</p> <p>23 MR. MELITO: Objection to form,</p> <p>24 and objection to outside the scope of</p> <p>25 this 30(b)(6). She may answer in her</p>
<p style="text-align: right;">58</p> <p>1 C. GLASS</p> <p>2 Again, I -- I can't speculate as to</p> <p>3 what we would do. Every human interaction is</p> <p>4 different.</p> <p>5 Q. Okay.</p> <p>6 So, I guess the answer to your</p> <p>7 question is that F.I.T. does not have a policy</p> <p>8 of how to ensure that two employees that are</p> <p>9 working together where one made a race</p> <p>10 complaint or retaliation complaint against the</p> <p>11 other, how you to make sure that those two are</p> <p>12 able to co-exist in the same office; is that</p> <p>13 right?</p> <p>14 MR. MELITO: Objection to form,</p> <p>15 and objection to outside the scope of</p> <p>16 the 30(b)(6).</p> <p>17 A. In a situation where two employees</p> <p>18 are working together and there is discord,</p> <p>19 the college would provide support and</p> <p>20 resources if there was an identified issue</p> <p>21 between the two in terms of separation or</p> <p>22 other kinds of accommodations in order to</p> <p>23 ensure both parties can work together --</p> <p>24 Q. I --</p> <p>25 A. -- during the period.</p>	<p style="text-align: right;">60</p> <p>1 C. GLASS</p> <p>2 personal capacity.</p> <p>3 A. It depends on a situation. If the</p> <p>4 two parties were -- it was determined that</p> <p>5 one requested to not be in the same area, we</p> <p>6 have made accommodations for workplace moves,</p> <p>7 physical space moves in order to accommodate</p> <p>8 those situations during an investigation,</p> <p>9 which we try to expedite to the extent that</p> <p>10 we can based on resources.</p> <p>11 Q. So, it would have to be a request by</p> <p>12 one or the other participants in the</p> <p>13 complaint before F.I.T. would take a step; is</p> <p>14 that correct?</p> <p>15 MR. MELITO: Objection.</p> <p>16 A. Not necessarily.</p> <p>17 Q. Not necessarily. So tell me another</p> <p>18 situation where F.I.T. -- under F.I.T.'s</p> <p>19 policies where F.I.T. would take the</p> <p>20 preventative step of having disruption or</p> <p>21 some other discord between a race complainant</p> <p>22 and the recipient of the complaint or the</p> <p>23 target of the complaint, when would F.I.T.</p> <p>24 under its policy be proactive and say before</p> <p>25 it goes anywhere, we're gonna separate these</p>

<p>61</p> <p>1 C. GLASS</p> <p>2 folks?</p> <p>3 MR. MELITO: Objection to form;</p> <p>4 and Derek, would you stipulate to</p> <p>5 this line of questioning that this is</p> <p>6 out -- I'll make a --</p> <p>7 MR. SELLS: I'm not</p> <p>8 stipulating. No, I'm not stipulating</p> <p>9 to that, Nicholas.</p> <p>10 MR. MELITO: No. No. No. Let</p> <p>11 me rephrase, Derek. Just so I'm not</p> <p>12 keep interrupting this line of</p> <p>13 questioning, I will make a standing</p> <p>14 objection that this line of</p> <p>15 questioning is outside the scope of</p> <p>16 the 30(b)(6). Will you agree to that</p> <p>17 standing objection, and I will not</p> <p>18 raise that objection in this line of</p> <p>19 questioning?</p> <p>20 MR. SELLS: You are going to do</p> <p>21 whatever you want to do. Okay. Keep</p> <p>22 going.</p> <p>23 MR. MELITO: Well, that's --</p> <p>24 MR. SELLS: Can we get an</p> <p>25 answer? I'm not here to talk about</p>	<p>63</p> <p>1 C. GLASS</p> <p>2 (Whereupon, a brief recess was</p> <p>3 taken at 11:26 a.m.; after which, the</p> <p>4 proceedings continued at 11:36 a.m.</p> <p>5 as follows.)</p> <p>6 MR. SELLS: Back on the record.</p> <p>7 Q. Ms. Glass, in terms of discipline is</p> <p>8 an employee suspension considered</p> <p>9 disciplinary?</p> <p>10 A. Yes.</p> <p>11 Q. When a disciplinary act of</p> <p>12 suspending an employee is based on</p> <p>13 allegations of race discrimination or</p> <p>14 retaliation, does the suspension come from</p> <p>15 you in HR or does it come from the</p> <p>16 Affirmative Action Office?</p> <p>17 A. Are you referring to a paid</p> <p>18 suspension under the contract pending the</p> <p>19 investigation or suspension as a disciplinary</p> <p>20 action? Because a paid suspension during</p> <p>21 investigation is technically not discipline</p> <p>22 until there's an investigation.</p> <p>23 Q. If someone is put on a paid</p> <p>24 suspension pending a disciplinary action,</p> <p>25 that's not considered discipline; is that</p>
<p>62</p> <p>1 C. GLASS</p> <p>2 your objections. I'm here to ask</p> <p>3 questions.</p> <p>4 MR. MELITO: I'll have to keep</p> <p>5 objecting to outside the scope of the</p> <p>6 30(b)(6). Go ahead.</p> <p>7 Q. Do you know the question, Ms. Glass?</p> <p>8 A. No.</p> <p>9 Q. No. You lost it because of all the</p> <p>10 nonsense.</p> <p>11 MR. SELLS: All right. Can you</p> <p>12 just read it back, Lesley.</p> <p>13 (Whereupon, the requested</p> <p>14 portion of the transcript was read</p> <p>15 back.)</p> <p>16 MR. MELITO: I'll renew my</p> <p>17 objection.</p> <p>18 A. Again, I can't speculate as to a</p> <p>19 scenario, and I can't think of one that will</p> <p>20 help me answer your question.</p> <p>21 MR. DRANOFF: Do you folks mind</p> <p>22 if we take just a quick five-minute</p> <p>23 break?</p> <p>24 MR. SELLS: I don't mind at</p> <p>25 all.</p>	<p>64</p> <p>1 C. GLASS</p> <p>2 correct?</p> <p>3 A. No, not until there are charges and</p> <p>4 a determination.</p> <p>5 Q. Right.</p> <p>6 And that's for union employees; is</p> <p>7 that right?</p> <p>8 A. Yes.</p> <p>9 Q. Are all employees at F.I.T.</p> <p>10 unionized?</p> <p>11 A. 98 percent.</p> <p>12 Q. Who are the 2 percent that are</p> <p>13 not --</p> <p>14 A. Administrators.</p> <p>15 Q. Administrators; what about deans?</p> <p>16 A. Deans are not.</p> <p>17 Q. If a dean were to be suspended based</p> <p>18 on allegations of race discrimination, would</p> <p>19 that come from your office or would that come</p> <p>20 from the Affirmative Action Office?</p> <p>21 A. A complaint would go to the</p> <p>22 Affirmative Action Office, and then they</p> <p>23 would consult with me. I haven't had one,</p> <p>24 so -- where there was a suspension involved,</p> <p>25 so...</p>

<p style="text-align: right;">65</p> <p>1 C. GLASS</p> <p>2 Q. What did you just say?</p> <p>3 A. I haven't had a suspension -- a case</p> <p>4 where there was a suspension based on a race</p> <p>5 claim, so...</p> <p>6 Q. Who is Kyle Farmer?</p> <p>7 A. Oh, Kyle Farmer.</p> <p>8 Q. Oh, Kyle Farmer. Yeah, yeah. Oh.</p> <p>9 Is there something funny? I see you laughing</p> <p>10 now.</p> <p>11 A. No. I -- I -- I -- I mean, that's a</p> <p>12 big case.</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. How could you forgot that?</p> <p>15 Q. Wow. Yeah. That's a big case. How</p> <p>16 do you forgot that one?</p> <p>17 A. Right.</p> <p>18 Q. Right?</p> <p>19 MR. MELITO: Objection.</p> <p>20 Q. What about him? How did he get --</p> <p>21 he was suspended, was he not?</p> <p>22 A. Yes, he was suspended.</p> <p>23 Q. And you're saying that it was the</p> <p>24 Affirmative Action Office that investigated</p> <p>25 that, right?</p>	<p style="text-align: right;">67</p> <p>1 C. GLASS</p> <p>2 Q. Wait. So let me ask you this.</p> <p>3 Under F.I.T.'s disciplinary process,</p> <p>4 the decision to discipline an employee, can</p> <p>5 it be based upon the instructions of lawyers,</p> <p>6 of outside lawyers? Does it say anywhere in</p> <p>7 F.I.T.'s policies that that's the way it</p> <p>8 conducts or makes decisions about</p> <p>9 disciplining employees?</p> <p>10 MR. MELITO: Objection.</p> <p>11 A. (No Response.)</p> <p>12 Q. You could answer.</p> <p>13 A. I don't recall anything in policy</p> <p>14 that speaks to that.</p> <p>15 Q. Right.</p> <p>16 The decision is made by you; isn't</p> <p>17 that right?</p> <p>18 MR. MELITO: Objection.</p> <p>19 A. Are you speaking generally or with</p> <p>20 regards to Kyle Farmer?</p> <p>21 Q. Well, let's talk generally.</p> <p>22 Generally, how does it work?</p> <p>23 A. I am responsible for reviewing the</p> <p>24 case and consulting with all parties involved</p> <p>25 and making the decision to put someone on a</p>
<p style="text-align: right;">66</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 A. No, actually that was an outside law</p> <p>4 firm that investigated that one.</p> <p>5 Q. But the decision to suspend him was</p> <p>6 made by who?</p> <p>7 MR. MELITO: Objection. To</p> <p>8 extent it calls for attorney/client</p> <p>9 privilege, if it -- do not reference</p> <p>10 anything that you know about that</p> <p>11 investigation with the outside law</p> <p>12 firm.</p> <p>13 A. No.</p> <p>14 Q. Whose decision was it to suspend</p> <p>15 him?</p> <p>16 MR. MELITO: Again, objection.</p> <p>17 To the extent it implicates</p> <p>18 attorney/client privilege, I instruct</p> <p>19 the witness not to answer.</p> <p>20 Q. You could answer the question.</p> <p>21 MR. MELITO: You cannot answer</p> <p>22 the question.</p> <p>23 I'm specifically instructing</p> <p>24 her not to answer based off of</p> <p>25 attorney/client privilege.</p>	<p style="text-align: right;">68</p> <p>1 C. GLASS</p> <p>2 paid suspension, if necessary, pending an</p> <p>3 investigation and charges or -- yeah, really</p> <p>4 that's it. I'm responsible for reviewing</p> <p>5 initially what we know and making a decision</p> <p>6 to put someone on a paid leave.</p> <p>7 Q. And do you have to get the approval</p> <p>8 of the president?</p> <p>9 A. I consult with the president.</p> <p>10 Q. Got it.</p> <p>11 And so it was your decision to put</p> <p>12 Kyle Farmer on a paid suspended leave; is</p> <p>13 that correct?</p> <p>14 MR. MELITO: Objection.</p> <p>15 A. No, I'm not gonna respond to</p> <p>16 questions about Kyle.</p> <p>17 Q. Why is that?</p> <p>18 A. Because my -- our attorney advised</p> <p>19 me not to --</p> <p>20 MR. MELITO: I --</p> <p>21 MR. SELLS: No, no, no.</p> <p>22 Q. He didn't say that. What he said --</p> <p>23 MR. MELITO: Just give me --</p> <p>24 MR. SELLS: Excuse me.</p> <p>25 Q. What he said to you was do not</p>

<p style="text-align: right;">69</p> <p>1 C. GLASS</p> <p>2 answer if it calls for an answer that would</p> <p>3 reveal attorney/client privilege. Now if you</p> <p>4 did not consult with a lawyer, if a lawyer</p> <p>5 did not advise you to put Kyle Farmer on a</p> <p>6 paid suspended leave, then you could answer</p> <p>7 the question.</p> <p>8 MR. MELITO: If you would like</p> <p>9 me to go off the record and just</p> <p>10 distinguish between attorney/client</p> <p>11 privilege with the witness, I'm more</p> <p>12 than happy to. Would you like me to</p> <p>13 take five minutes?</p> <p>14 MR. SELLS: No, I don't.</p> <p>15 MR. MELITO: So again, to the</p> <p>16 extent a question does not implicate</p> <p>17 any advice from outside counsel or</p> <p>18 your GC's office, your general</p> <p>19 counsel's office, you may answer.</p> <p>20 A. The entire Kyle Farmer situation was</p> <p>21 involving inside and outside counsel; so I'm</p> <p>22 not comfortable answering anything related to</p> <p>23 this.</p> <p>24 Q. When you say "the entire Kyle Farmer</p> <p>25 incident," what incident are you talking</p>	<p style="text-align: right;">71</p> <p>1 C. GLASS</p> <p>2 was actually not involved in the majority of</p> <p>3 the case nor the investigation and that's why</p> <p>4 initially, when you asked me for an example,</p> <p>5 that one did not come to mind; 'cause I did</p> <p>6 not -- I was not responsible for that case</p> <p>7 all the way through the legal proceedings and</p> <p>8 the ultimate process.</p> <p>9 So, do you still want me to --</p> <p>10 go ahead.</p> <p>11 Q. So, you're saying that the only</p> <p>12 reason that the Kyle Farmer incident did not</p> <p>13 come to mind was because you didn't come here</p> <p>14 today expecting to answer any questions about</p> <p>15 Kyle Farmer; is that correct?</p> <p>16 MR. MELITO: Objection.</p> <p>17 A. That's correct.</p> <p>18 Q. Okay.</p> <p>19 But you did come here expecting to</p> <p>20 answer questions about Mary Davis, right?</p> <p>21 MR. MELITO: Objection. To the --</p> <p>22 objection.</p> <p>23 A. No, actually I did not; either.</p> <p>24 Q. So, you didn't understand that you</p> <p>25 were coming to this deposition to answer</p>
<p style="text-align: right;">70</p> <p>1 C. GLASS</p> <p>2 about?</p> <p>3 A. The one I assume that you're</p> <p>4 referring to in terms of the fashion show</p> <p>5 complaint --</p> <p>6 Q. Tell me about that. What happened</p> <p>7 at the fashion show?</p> <p>8 A. I think you already know that. Why</p> <p>9 are you asking me?</p> <p>10 Q. Please, answer the question.</p> <p>11 A. See, this is where it gets to be you</p> <p>12 badgering me. This is really uncalled for.</p> <p>13 Q. You call it "badgering" because I am</p> <p>14 asking you about your understanding of the</p> <p>15 fashion show incident; is that right? 'Cause</p> <p>16 I am asking you -- just because--</p> <p>17 MR. SELLS: Off the record.</p> <p>18 (Whereupon, an off-the-record</p> <p>19 discussion was held at 11:37 a.m.; after</p> <p>20 which, the requested portion of the</p> <p>21 transcript was read back and the</p> <p>22 proceeding continued at 12:33 p.m. as</p> <p>23 follows.)</p> <p>24 A. No, I am not opposed to answering</p> <p>25 questions about the Kyle Farmer incident. I</p>	<p style="text-align: right;">72</p> <p>1 C. GLASS</p> <p>2 questions about the lawsuit that was brought</p> <p>3 by Ms. Phillips against in part Mary Davis?</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. My role as a witness is to college</p> <p>6 policy and procedure related to discipline</p> <p>7 and re-evaluation.</p> <p>8 Q. You're answering questions about</p> <p>9 your role as well in this case; you are not</p> <p>10 aware of that?</p> <p>11 MR. MELITO: Objection.</p> <p>12 A. As it's relates to procedure.</p> <p>13 Q. Okay.</p> <p>14 But one of the things that</p> <p>15 Ms. Phillips did was she raised a complaint</p> <p>16 of discrimination, race discrimination; isn't</p> <p>17 that right?</p> <p>18 A. Which was filed in 2018. I did not</p> <p>19 come to F.I.T. until one month before the</p> <p>20 complaint against Marilyn was made; so I was</p> <p>21 not involved in her complaint -- initial</p> <p>22 complaint of race discrimination.</p> <p>23 Q. All right.</p> <p>24 But that complaint was still open at</p> <p>25 the time that you came on board, right?</p>

<p style="text-align: right;">73</p> <p>1 C. GLASS</p> <p>2 A. Correct.</p> <p>3 Q. So Ms. Phillips had this open</p> <p>4 complaint of discrimination at the time that</p> <p>5 you came in, which was in April of 2019,</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. Then in May of 2019 was when</p> <p>9 Ms. Phillips made another complaint about</p> <p>10 Ms. Barton retaliating against her for</p> <p>11 bringing that complaint of race</p> <p>12 discrimination, right?</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. I would -- I came to the college in</p> <p>15 April of 2019. The incident happened in May,</p> <p>16 and I was made aware of the complaint during</p> <p>17 the initial phase of the investigation of the</p> <p>18 event between the two employees. I was not</p> <p>19 involved in the complaint, the initial</p> <p>20 complaint nor the investigation of that</p> <p>21 complaint.</p> <p>22 Q. But you know that Mary Davis was</p> <p>23 Ms. Phillips' supervisor as well as</p> <p>24 Ms. Barton's supervisor, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">75</p> <p>1 C. GLASS</p> <p>2 A. When it is appropriate and involves</p> <p>3 each office.</p> <p>4 Q. And there is nothing to prevent you</p> <p>5 if you are confronted with a situation in May</p> <p>6 of 2019 involving Ms. Barton or Ms. Davis and</p> <p>7 Ms. Phillips from speaking to Ms. Kekana</p> <p>8 and/or getting information from her office as</p> <p>9 to where her investigation stands or stood,</p> <p>10 correct?</p> <p>11 MR. MELITO: Objection.</p> <p>12 A. I could.</p> <p>13 Q. All right.</p> <p>14 And you understand that a complaint</p> <p>15 of discrimination involves, at least with</p> <p>16 Ms. Phillips' case, it involved race</p> <p>17 discrimination, correct?</p> <p>18 MR. MELITO: Objection.</p> <p>19 A. Yes.</p> <p>20 Q. And you understand what race</p> <p>21 discrimination, some people who act in a</p> <p>22 discriminatory fashion have potentially a</p> <p>23 discriminatory motive for their actions;</p> <p>24 isn't that correct?</p> <p>25 MR. MELITO: Objection.</p>
<p style="text-align: right;">74</p> <p>1 C. GLASS</p> <p>2 Q. And you knew that Ms. Phillips had</p> <p>3 an open complaint of discrimination against</p> <p>4 Mary Davis, right?</p> <p>5 MR. MELITO: Again, objection.</p> <p>6 This is outside the scope of</p> <p>7 30(b)(6). She may answer in her</p> <p>8 personal capacity.</p> <p>9 MR. DRANOFF: I'm going to</p> <p>10 object to form on that.</p> <p>11 A. I was made aware that a complaint</p> <p>12 was filed. I was not involved or privy to</p> <p>13 the complaint as a matter of the Title 9</p> <p>14 Affirmative Action Office.</p> <p>15 Q. Well, when you say that you were</p> <p>16 "made aware" of it, certainly you have</p> <p>17 communications with Ms. Kekana; is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you share information between</p> <p>21 the Affirmative Action Office and the HR</p> <p>22 Office as it pertains to investigations into</p> <p>23 complaints of discrimination and/or</p> <p>24 retaliation; isn't that right?</p> <p>25 MR. DRANOFF: Objection.</p>	<p style="text-align: right;">76</p> <p>1 C. GLASS</p> <p>2 A. I -- can you be more specific?</p> <p>3 Q. Yes. Someone who is alleged to have</p> <p>4 discriminated against another person based on</p> <p>5 their race or some other characteristic can</p> <p>6 have a motive for acting in a discriminatory</p> <p>7 way, right?</p> <p>8 MR. MELITO: Objection.</p> <p>9 A. I can't answer that question.</p> <p>10 Q. And why can't you?</p> <p>11 A. I -- I can't make that assumption</p> <p>12 for others. I don't know how -- how they</p> <p>13 would react or not.</p> <p>14 Q. I get it. You don't know what's</p> <p>15 inside their mind; is that what you are</p> <p>16 saying?</p> <p>17 A. Correct.</p> <p>18 Q. So when an investigation takes place</p> <p>19 about whether or not someone acted in a</p> <p>20 racially discriminatory way, you would have</p> <p>21 to look at certain things that are alleged,</p> <p>22 right?</p> <p>23 MR. MELITO: Objection.</p> <p>24 Outside the scope of a 30(b)(6).</p> <p>25 If you would like, I'll just</p>

<p style="text-align: right;">77</p> <p>1 C. GLASS</p> <p>2 keep this objection standing to this</p> <p>3 line of questioning not to interrupt --</p> <p>4 MR. SELLS: That's fine.</p> <p>5 That's fine. You could keep it</p> <p>6 going.</p> <p>7 A. Can you repeat the question?</p> <p>8 (Whereupon, the requested</p> <p>9 portion of the transcript was read</p> <p>10 back.)</p> <p>11 A. I would look at certain things that</p> <p>12 were alleged; what does that mean?</p> <p>13 Q. Well, if someone made a complaint,</p> <p>14 that -- you understand a complaint is just an</p> <p>15 allegation?</p> <p>16 A. Correct.</p> <p>17 Q. So in order for your office, HR, or</p> <p>18 the Affirmative Action Office at F.I.T. to</p> <p>19 determine whether or not that allegation or</p> <p>20 that complaint should be substantiated, you</p> <p>21 would have to look at the nature of the</p> <p>22 complaint; is that right?</p> <p>23 A. Yeah, I would look at --</p> <p>24 MR. MELITO: Objection.</p> <p>25 Q. You can answer.</p>	<p style="text-align: right;">79</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 A. Yeah, I'm not sure at what point in</p> <p>4 the investigation. That was -- Ms. Kekana's</p> <p>5 investigation involved that allegation, and</p> <p>6 it was -- I did become aware of it at some</p> <p>7 point.</p> <p>8 Q. Okay.</p> <p>9 So you have this situation, let's</p> <p>10 take Kyle Farmer, where he was alleged to</p> <p>11 have been acting in a racially discriminatory</p> <p>12 way by making statements to Ms. Phillips.</p> <p>13 And then it comes to your attention this</p> <p>14 fashion show, right; that's the chronology;</p> <p>15 Ms. Phillips's complaint and then you had to</p> <p>16 look at Mr. Farmer in connection with this</p> <p>17 fashion show; is that right?</p> <p>18 A. That was --</p> <p>19 MR. MELITO: Objection.</p> <p>20 A. -- accurate.</p> <p>21 Q. Okay.</p> <p>22 And so when the second complaint</p> <p>23 comes against Kyle Farmer related to the</p> <p>24 fashion show, what is it that you can recall</p> <p>25 the complaint involved?</p>
<p style="text-align: right;">78</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Go ahead. You can</p> <p>3 answer.</p> <p>4 A. I would look at the witness</p> <p>5 statements and get an understanding of -- to</p> <p>6 the best of my ability what actually</p> <p>7 happened.</p> <p>8 Q. And so in addition to whatever might</p> <p>9 have come with the witness statements and</p> <p>10 whatever the allegation may have been, if you</p> <p>11 have other information that the person who's</p> <p>12 accused of being discriminatory that will</p> <p>13 help support a discriminatory motive, you</p> <p>14 would look at that as well, correct?</p> <p>15 MR. MELITO: Objection to form.</p> <p>16 A. At that time, there was no</p> <p>17 relationship between the two and it was being</p> <p>18 handled by another office; so, no.</p> <p>19 Q. Right.</p> <p>20 So did you understand that</p> <p>21 Ms. Phillips had made a complaint against</p> <p>22 Kyle Farmer that Kyle Farmer had made a</p> <p>23 racist comment to her; you were aware of</p> <p>24 that, right?</p> <p>25 A. Not --</p>	<p style="text-align: right;">80</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 MR. DRANOFF: Object to the</p> <p>4 form.</p> <p>5 A. The complaint against Kyle Farmer</p> <p>6 involved a fashion show that allowed the use</p> <p>7 of inappropriate accessories.</p> <p>8 Q. Were you in attendance at that</p> <p>9 fashion show?</p> <p>10 A. I was not.</p> <p>11 Q. How did you learn about that fashion</p> <p>12 show?</p> <p>13 A. I don't recall.</p> <p>14 MR. SELLS: Can we pull up</p> <p>15 Exhibit 31 please.</p> <p>16 (The image is shared on the</p> <p>17 computer screen.)</p> <p>18 MR. SELLS: It is actually</p> <p>19 Exhibit 32.</p> <p>20 (The image is shared on the</p> <p>21 computer screen.)</p> <p>22 Q. As you can see, Exhibit 32 is the</p> <p>23 New York Post article from February 18th,</p> <p>24 2020. Do you see that, Ms. Glass?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">81</p> <p>1 C. GLASS</p> <p>2 Q. Is this the fashion show that you</p> <p>3 were talking about?</p> <p>4 MR. DRANOFF: Objection.</p> <p>5 A. Yes.</p> <p>6 Q. Do you see the accessories that are</p> <p>7 on this particular model in the photograph?</p> <p>8 A. Yes.</p> <p>9 Q. Do see the title of the article</p> <p>10 says, "F.I.T. apologizes for clearly racist</p> <p>11 alumni fashion show." Do you see that?</p> <p>12 A. I see that.</p> <p>13 Q. In quotes is "clearly racist"; do</p> <p>14 you see that?</p> <p>15 A. I do.</p> <p>16 Q. All right.</p> <p>17 And is it true that that phrase,</p> <p>18 "clearly racist" that is in quotes; did that</p> <p>19 come from the president of the school?</p> <p>20 MR. MELITO: Objection.</p> <p>21 A. I don't know.</p> <p>22 Q. Well, did you have any part in</p> <p>23 crafting a statement or letter that President</p> <p>24 Brown issued following the fashion show?</p> <p>25 A. I did not.</p>	<p style="text-align: right;">83</p> <p>1 C. GLASS</p> <p>2 accessory.</p> <p>3 Q. Tell me exactly what you mean by</p> <p>4 that issues were raised, they were not heeded</p> <p>5 and as a result you believe this to be</p> <p>6 racist?</p> <p>7 MR. MELITO: Objection.</p> <p>8 Outside the scope of the 30(b)(6).</p> <p>9 You may answer in a personal</p> <p>10 capacity.</p> <p>11 A. I was not there. I was not involved</p> <p>12 in the fashion show; so, all I know is what I</p> <p>13 heard and read in the newspapers and that</p> <p>14 students raised objections to the use of the</p> <p>15 accessories and they were instructed to use</p> <p>16 them anyway; and that was inappropriate and</p> <p>17 the interpretation of this is inappropriate.</p> <p>18 Q. Now, when you say "inappropriate,"</p> <p>19 do you mean that the depiction of the lips --</p> <p>20 'cause you used the term "accessories," the</p> <p>21 lips accessories, do you believe that to be</p> <p>22 racially offensive against African-Americans?</p> <p>23 MR. MELITO: Objection. Again,</p> <p>24 this is a standing objection. This</p> <p>25 is outside the scope of the 30(b)(6).</p>
<p style="text-align: right;">82</p> <p>1 C. GLASS</p> <p>2 Q. Okay.</p> <p>3 Do you believe that this photograph</p> <p>4 is depicting this model with those</p> <p>5 accessories; do you believe that it is</p> <p>6 clearly racist?</p> <p>7 MR. MELITO: Objection. Out of</p> <p>8 the scope of the 30(b)(6), to form.</p> <p>9 She may answer in her personal</p> <p>10 capacity.</p> <p>11 A. I don't think that my personal</p> <p>12 opinion is relevant.</p> <p>13 Q. You might not, But I'm asking you a</p> <p>14 question. Do you think that it is clearly</p> <p>15 racist?</p> <p>16 MR. MELITO: Same objection.</p> <p>17 A. I think it is absolutely</p> <p>18 inappropriate.</p> <p>19 Q. And why?</p> <p>20 MR. MELITO: Objection. Again</p> <p>21 this is in her personal capacity.</p> <p>22 A. Because my understanding of the</p> <p>23 situation is that issues were raised and</p> <p>24 concerns were raised but not heeded, and no</p> <p>25 action was taken to change the use of the</p>	<p style="text-align: right;">84</p> <p>1 C. GLASS</p> <p>2 Any responses are in her personal</p> <p>3 capacity.</p> <p>4 A. (No Response.)</p> <p>5 Q. You could answer.</p> <p>6 A. I think it can be interpreted as</p> <p>7 offensive to people of color.</p> <p>8 Q. What about the ears? Do you think</p> <p>9 that the ears likewise -- the accessories of</p> <p>10 the ears, do you believe that could be</p> <p>11 offensive, seen as offensive against people</p> <p>12 of color?</p> <p>13 A. Yes --</p> <p>14 MR. MELITO: Same objection.</p> <p>15 MR. SELLS: We can take down</p> <p>16 the document.</p> <p>17 Q. When you say that objections were</p> <p>18 raised before the fashion show, what is your</p> <p>19 understanding of how those objections came</p> <p>20 about and who were they made to?</p> <p>21 MR. MELITO: Objection.</p> <p>22 Would you agree that this line</p> <p>23 of questioning outside -- well, just</p> <p>24 note my objection. Moving forward so</p> <p>25 I do not keep interrupting, this is</p>

<p style="text-align: right;">85</p> <p>1 C. GLASS</p> <p>2 outside the scope of the 30(b) (6). I</p> <p>3 will only raise form objections.</p> <p>4 MR. SELLS: You have the</p> <p>5 ability to not object. You don't</p> <p>6 have to object. I will assume that</p> <p>7 you have objected to this line of</p> <p>8 questioning. I don't agree with it;</p> <p>9 but I assume that you have the</p> <p>10 objection.</p> <p>11 MR. MELITO: Thank you.</p> <p>12 Q. Do you need the question read back,</p> <p>13 Dr. Glass?</p> <p>14 A. Yes, thank you.</p> <p>15 (Whereupon, the requested</p> <p>16 portion of the transcript was read</p> <p>17 back.)</p> <p>18 A. My understanding is that students</p> <p>19 raised objections to the producer and the</p> <p>20 faculty member.</p> <p>21 Q. When you say that they raised these</p> <p>22 objections, did they raise them before the</p> <p>23 show or at some other point in time or both?</p> <p>24 A. I understood it to be before the</p> <p>25 show.</p>	<p style="text-align: right;">87</p> <p>1 C. GLASS</p> <p>2 record to the extent any</p> <p>3 attorney/client privilege was just</p> <p>4 implicated, that is not waived.</p> <p>5 Q. All right.</p> <p>6 Now, who was Kyle Farmer's</p> <p>7 supervisor at F.I.T. at the time that this</p> <p>8 fashion show took place?</p> <p>9 A. Dean Mary Davis.</p> <p>10 Q. And do you know if Dean Davis had</p> <p>11 any role in the fashion show?</p> <p>12 A. Yes.</p> <p>13 Q. And what was her role?</p> <p>14 A. The primary administrator of the</p> <p>15 School of Graduate Studies.</p> <p>16 Q. And as the primary administrator for</p> <p>17 Graduate Studies, what was her role</p> <p>18 specifically with the fashion show?</p> <p>19 A. Actually, I'm not sure of the</p> <p>20 detail. Again, as the primary administrator,</p> <p>21 she had oversight of all the degree programs</p> <p>22 and activities.</p> <p>23 Q. Got it.</p> <p>24 And isn't it true that not only was</p> <p>25 Kyle Farmer suspended, but so was Mary Davis?</p>
<p style="text-align: right;">86</p> <p>1 C. GLASS</p> <p>2 Q. Okay.</p> <p>3 Who was the faculty member that</p> <p>4 received the complaints?</p> <p>5 A. Kyle Farmer.</p> <p>6 Q. And what was Mr. Farmer's response</p> <p>7 to the students?</p> <p>8 MR. MELITO: Objection to form.</p> <p>9 A. I don't know.</p> <p>10 Q. Okay.</p> <p>11 Well, obviously whatever the</p> <p>12 complaints were made, Mr. Farmer didn't see</p> <p>13 fit to stop the show, correct, or to stop the</p> <p>14 accessories from being used; is that correct?</p> <p>15 MR. MELITO: Objection --</p> <p>16 A. The show continued -- yeah, sorry.</p> <p>17 Q. And is that why you decided to</p> <p>18 suspend Mr. Farmer?</p> <p>19 MR. MELITO: Objection to form.</p> <p>20 A. So, my role in this particular case,</p> <p>21 I was guided by legal counsel; and I do</p> <p>22 remember now that the letter of paid</p> <p>23 suspension pending investigation to Kyle was</p> <p>24 from me under the advice of legal counsel.</p> <p>25 MR. MELITO: Just note for the</p>	<p style="text-align: right;">88</p> <p>1 C. GLASS</p> <p>2 A. Correct.</p> <p>3 Q. Was it you who suspended Mary Davis</p> <p>4 as well?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. The letter came from me, yes, for a</p> <p>7 paid suspension pending investigation.</p> <p>8 Q. And why did you agree to send that</p> <p>9 letter to Mary Davis?</p> <p>10 MR. MELITO: Objection to the</p> <p>11 extent it calls for attorney/client</p> <p>12 privilege.</p> <p>13 Again, sorry. To the extent</p> <p>14 that it calls for attorney/client</p> <p>15 privilege, do not answer.</p> <p>16 Q. Okay.</p> <p>17 You could answer otherwise.</p> <p>18 MR. MELITO: If it would</p> <p>19 implicate attorney/client privilege,</p> <p>20 you could state that for the record.</p> <p>21 THE WITNESS: Oh, okay.</p> <p>22 A. That would fall under</p> <p>23 attorney/client privilege.</p> <p>24 Q. Okay.</p> <p>25 So am I to understand my question --</p>

<p style="text-align: right;">89</p> <p>1 C. GLASS</p> <p>2 because my question to you is, Why did you</p> <p>3 agree to send the letter to Mary Davis --</p> <p>4 A. Yeah, I --</p> <p>5 Q. -- so you're saying that would</p> <p>6 implicate attorney/client privilege?</p> <p>7 MR. MELITO: Objection.</p> <p>8 A. Correct.</p> <p>9 Q. Okay.</p> <p>10 So I thought earlier in the</p> <p>11 deposition you indicated in response to one</p> <p>12 of my questions that you would follow your</p> <p>13 employer's instructions or anyone's</p> <p>14 instructions that you agreed with. Is that</p> <p>15 the case?</p> <p>16 MR. MELITO: Objection.</p> <p>17 A. I would hope that I would always</p> <p>18 agree; but yes.</p> <p>19 Q. And so did you agree that the</p> <p>20 suspension of Mary Davis was appropriate?</p> <p>21 A. I agreed that the suspension of paid</p> <p>22 suspension consistent with process was</p> <p>23 appropriate.</p> <p>24 Q. And you agreed with Kyle Farmer's</p> <p>25 suspension as well; is that correct?</p>	<p style="text-align: right;">91</p> <p>1 C. GLASS</p> <p>2 A. Yes.</p> <p>3 Q. Is that what you mean by "the</p> <p>4 de-tenure process"?</p> <p>5 A. Yes, anyone who is -- achieved</p> <p>6 tenure has a higher threshold for</p> <p>7 termination; and there is a process they go</p> <p>8 through under the tenure law for separation.</p> <p>9 Q. Now, how is it determined that</p> <p>10 Mr. Farmer should be charged?</p> <p>11 A. That would fall under</p> <p>12 attorney/client privilege.</p> <p>13 Q. Okay.</p> <p>14 Well, Mr. Farmer is part of the</p> <p>15 union, correct?</p> <p>16 A. Correct.</p> <p>17 Q. So, was the same process that you</p> <p>18 described earlier followed whereby you would</p> <p>19 first have to consult with the union, that</p> <p>20 the union would or would not agree to what</p> <p>21 was contained in the charge and then action</p> <p>22 taken?</p> <p>23 A. Correct.</p> <p>24 Q. So you're saying that in Mr. Farmer's</p> <p>25 case, a different process was followed; is</p>
<p style="text-align: right;">90</p> <p>1 C. GLASS</p> <p>2 A. Yes.</p> <p>3 Q. Now as it relates to both Ms. Davis</p> <p>4 and Mr. Farmer, is it true that neither of</p> <p>5 them are union members?</p> <p>6 A. Correct --</p> <p>7 MR. MELITO: Objection.</p> <p>8 Q. And is the policy the same as it</p> <p>9 relates to suspension with pay as it is not</p> <p>10 deemed to be a disciplinary act?</p> <p>11 A. Kyle Farmer was a union member.</p> <p>12 Q. Oh, he was. All right.</p> <p>13 But Dean Davis was not, correct?</p> <p>14 A. Correct.</p> <p>15 Q. Was any discipline administered to</p> <p>16 either Dean Davis or Kyle Farmer as a result</p> <p>17 of the fashion show or some other reason?</p> <p>18 A. Yes.</p> <p>19 Q. With regard to Kyle Farmer, what</p> <p>20 discipline was administered?</p> <p>21 A. He was charged and went through the</p> <p>22 de-tenure process, which went to the board</p> <p>23 and was ultimately de-tenured.</p> <p>24 Q. Okay.</p> <p>25 Did he lose his job at F.I.T.?</p>	<p style="text-align: right;">92</p> <p>1 C. GLASS</p> <p>2 that correct?</p> <p>3 MR. MELITO: Objection.</p> <p>4 A. I followed the collective bargaining</p> <p>5 agreement.</p> <p>6 Q. Okay.</p> <p>7 So did you sign Mr. Farmer's</p> <p>8 charges?</p> <p>9 A. I believe I did.</p> <p>10 MR. SELLS: We call for the</p> <p>11 production of the charge sheet that</p> <p>12 Dr. Glass filled out with regard to</p> <p>13 Kyle Farmer.</p> <p>14 Q. In the charge that you --</p> <p>15 MR. MELITO: Follow up with the</p> <p>16 written request, and we will respond</p> <p>17 accordingly.</p> <p>18 MR. SELLS: Okay.</p> <p>19 Q. Now with regard to the charge, do</p> <p>20 you recall what you put in the charge?</p> <p>21 A. I would have to see the document.</p> <p>22 Q. Okay.</p> <p>23 But without seeing the document, as</p> <p>24 you sit here today do you know what was the</p> <p>25 basis of you filling out the charge?</p>

<p style="text-align: right;">93</p> <p>1 C. GLASS</p> <p>2 A. Unprofessional conduct pending --</p> <p>3 the -- so the charges were -- yeah;</p> <p>4 inappropriate conduct and I would -- and I</p> <p>5 would have to read it again.</p> <p>6 Q. Did any of the charges that you can</p> <p>7 recall as they related to Mr. Farmer have</p> <p>8 anything to do with race discrimination or</p> <p>9 violation of F.I.T.'s policies concerning</p> <p>10 antidiscrimination?</p> <p>11 A. Yes, I believe that policy was noted</p> <p>12 and is part of the charge,</p> <p>13 antidiscrimination.</p> <p>14 Q. And so with regard to Mr. Farmer, is</p> <p>15 it not true then that that allegation of</p> <p>16 discrimination in violation of the</p> <p>17 antiharassment policy did not go to the</p> <p>18 Affirmative Action Office; is that true?</p> <p>19 MR. MELITO: Objection.</p> <p>20 You can answer.</p> <p>21 A. So, again, back to my earlier answer</p> <p>22 about, you know, the -- the severity of the</p> <p>23 issue was the OGC was involved immediately,</p> <p>24 and they engaged an external independent</p> <p>25 investigation.</p>	<p style="text-align: right;">95</p> <p>1 C. GLASS</p> <p>2 would handle race discrimination complaints</p> <p>3 instead of the Affirmative Action Office,</p> <p>4 where did that come from?</p> <p>5 MR. MELITO: Objection.</p> <p>6 THE WITNESS: Can I answer?</p> <p>7 Should I?</p> <p>8 MR. MELITO: Yes. Yes.</p> <p>9 A. Okay. So, based on the severity and</p> <p>10 public relations, the times, it was an</p> <p>11 immediate response that involved legal</p> <p>12 counsel.</p> <p>13 Q. And when you say "the severity,"</p> <p>14 where is there a severity exception in</p> <p>15 F.I.T.'s policies, if you could just point</p> <p>16 that out to me?</p> <p>17 A. I don't believe there is one.</p> <p>18 MR. MELITO: Objection.</p> <p>19 Q. I see.</p> <p>20 So this was just a decision that</p> <p>21 came about from who; who decided that the</p> <p>22 internal general counsel would look at this</p> <p>23 matter as opposed to the Affirmative Action</p> <p>24 Office?</p> <p>25 MR. MELITO: Objection.</p>
<p style="text-align: right;">94</p> <p>1 C. GLASS</p> <p>2 Q. So, you said the office of -- you</p> <p>3 used --</p> <p>4 A. Our internal general counsel, F.I.T.</p> <p>5 counsel.</p> <p>6 Q. And why was the internal general</p> <p>7 counsel, if you know, why were they involved</p> <p>8 as opposed to the Affirmative Action Office?</p> <p>9 A. I think the Affirmative Action</p> <p>10 Office was involved as well --</p> <p>11 Q. In what way? In what way to your</p> <p>12 understanding?</p> <p>13 A. I don't know.</p> <p>14 Q. Well, what you testified to before</p> <p>15 was that any complaint on discriminatory</p> <p>16 conduct by an F.I.T. employee would first be</p> <p>17 investigated by the Affirmative Action</p> <p>18 Office; do you remember your testimony on</p> <p>19 that?</p> <p>20 A. Yeah, generally that is the case.</p> <p>21 Q. Okay.</p> <p>22 So where did this exception come</p> <p>23 from under F.I.T.'s policy --</p> <p>24 MR. MELITO: Objection --</p> <p>25 Q. -- that the internal general counsel</p>	<p style="text-align: right;">96</p> <p>1 C. GLASS</p> <p>2 A. I don't know exactly. That's what</p> <p>3 happened.</p> <p>4 Q. Well, how did you learn about this</p> <p>5 exception?</p> <p>6 MR. MELITO: Objection.</p> <p>7 A. I don't remember how I learned.</p> <p>8 Q. So, someone above you made a</p> <p>9 decision about a potential disciplinary</p> <p>10 matter and didn't even consult with you; is</p> <p>11 that right?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. I don't recall.</p> <p>14 Q. Who was commissioned to do the</p> <p>15 investigation into the fashion show?</p> <p>16 A. Our internal counsel secured an</p> <p>17 outside firm.</p> <p>18 Q. Do you know who that firm was?</p> <p>19 A. I don't remember their name.</p> <p>20 MR. MELITO: Objection.</p> <p>21 Q. Did they issue a report of any kind</p> <p>22 related to their investigation?</p> <p>23 A. They did.</p> <p>24 Q. What was the result of their</p> <p>25 investigation?</p>

<p style="text-align: right;">97</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection. Calls</p> <p>3 for attorney/client privilege.</p> <p>4 MR. SELLS: I don't think so --</p> <p>5 MR. MELITO: It's my</p> <p>6 understanding --</p> <p>7 MR. SELLS: But what we'll do</p> <p>8 is call for the production of the</p> <p>9 report that was issued in connection</p> <p>10 with the investigation.</p> <p>11 MR. MELITO: Again, follow up</p> <p>12 in writing and we'll respond</p> <p>13 accordingly.</p> <p>14 MR. SELLS: We will.</p> <p>15 Q. Now, I'm going to ask you questions</p> <p>16 about Dean Davis. Again, the decision to</p> <p>17 suspend with pay Dean Davis, was that</p> <p>18 something that was decided by someone other</p> <p>19 than you?</p> <p>20 MR. MELITO: Objection.</p> <p>21 A. Again, I think that's privileged.</p> <p>22 Q. So, the answer would be, yes, right --</p> <p>23 A. No -- 'cause I'm not answering --</p> <p>24 Q. I'm not asking you who. I just</p> <p>25 asked you, Was the decision made by someone</p>	<p style="text-align: right;">99</p> <p>1 C. GLASS</p> <p>2 collective bargaining agreement.</p> <p>3 Q. But she knew what the allegations</p> <p>4 were against her; is it fair to say?</p> <p>5 A. Yes.</p> <p>6 Q. How was she made aware of the</p> <p>7 allegations against her?</p> <p>8 A. In writing.</p> <p>9 Q. By who; did you make that writing?</p> <p>10 A. That is the letter that I referred</p> <p>11 to.</p> <p>12 Q. And do you recall what you wrote in</p> <p>13 that letter?</p> <p>14 A. That she was being placed on paid</p> <p>15 suspension pending the investigation and</p> <p>16 decision for potential discipline.</p> <p>17 Q. And did you agree with that</p> <p>18 decision, to place --</p> <p>19 MR. MELITO: Objection --</p> <p>20 Q. -- Dean Davis on a paid suspension</p> <p>21 pending --</p> <p>22 MR. MELITO: Objection --</p> <p>23 Q. -- the investigation?</p> <p>24 A. Yes.</p> <p>25 Q. And how long did this investigation</p>
<p style="text-align: right;">98</p> <p>1 C. GLASS</p> <p>2 other than you?</p> <p>3 MR. MELITO: Objection. Calls</p> <p>4 for attorney/client privilege.</p> <p>5 MR. SELLS: No, it doesn't.</p> <p>6 MR. MELITO: Again, I think</p> <p>7 that does.</p> <p>8 Q. Let's put it this way. Did you sign</p> <p>9 whatever paperwork that was necessary for</p> <p>10 Dean Davis to be suspended with pay?</p> <p>11 A. I did.</p> <p>12 Q. Okay.</p> <p>13 MR. SELLS: So we call for the</p> <p>14 production of the suspension.</p> <p>15 Q. Now, did you have to fill out</p> <p>16 charges against Dean Davis?</p> <p>17 A. I believe in the suspension letter</p> <p>18 involved -- included charges. Dean Davis was</p> <p>19 an at-will employee. Did not file -- does</p> <p>20 not follow the collective bargaining</p> <p>21 agreement process; she serves at the will of</p> <p>22 the president.</p> <p>23 Q. So, are you saying there were</p> <p>24 charges or there were not charges?</p> <p>25 A. Not charges as we define them in the</p>	<p style="text-align: right;">100</p> <p>1 C. GLASS</p> <p>2 take to complete?</p> <p>3 A. I don't recall the total time; it</p> <p>4 was extensive.</p> <p>5 Q. Okay.</p> <p>6 During that whatever time it took</p> <p>7 before the decision came down, was it true</p> <p>8 that Dean Davis and Mr. Farmer were being</p> <p>9 paid?</p> <p>10 A. Yes.</p> <p>11 Q. And what was the outcome of the</p> <p>12 investigation into Dean Davis's role with</p> <p>13 respect to the fashion show?</p> <p>14 A. That there was overall</p> <p>15 responsibility and, therefore, termination</p> <p>16 was recommended.</p> <p>17 MR. MELITO: I'll just note for</p> <p>18 the record to the extent that</p> <p>19 attorney/client privilege was</p> <p>20 implicated; it is not waived.</p> <p>21 THE WITNESS: Sorry.</p> <p>22 Q. Now, do you know whether or not the</p> <p>23 investigation into this fashion show</p> <p>24 developed into a larger investigation into</p> <p>25 the Graduate School that Dean Davis was in</p>

<p style="text-align: right;">101</p> <p>1 C. GLASS</p> <p>2 charge of?</p> <p>3 A. Yes.</p> <p>4 MR. MELITO: Objection.</p> <p>5 Q. And in terms of the larger</p> <p>6 investigation into the School of Graduate</p> <p>7 Studies at F.I.T., was it determined that</p> <p>8 there was a racially hostile environment for</p> <p>9 individuals of color?</p> <p>10 MR. MELITO: Objection, and to</p> <p>11 the extent it calls for</p> <p>12 attorney/client privilege; you cannot</p> <p>13 respond.</p> <p>14 A. I believe you'll -- that's in the</p> <p>15 report.</p> <p>16 Q. And when you say "that's in the</p> <p>17 report --"</p> <p>18 A. The answer to your question is in</p> <p>19 the report.</p> <p>20 Q. Right.</p> <p>21 So did they conclude -- did the</p> <p>22 report conclude that F.I.T.'s Graduate School</p> <p>23 operate a racially hostile environment for</p> <p>24 students of color?</p> <p>25 MR. MELITO: Objection. Please</p>	<p style="text-align: right;">103</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: We call for the</p> <p>3 production of the letter that you</p> <p>4 sent to Dean Davis informing her of</p> <p>5 her termination.</p> <p>6 MR. MELITO: Just follow up in</p> <p>7 writing.</p> <p>8 MR. SELLS: All right.</p> <p>9 Q. Did you send a similar let tore</p> <p>10 Mr. Farmer notifying him of his termination?</p> <p>11 A. I believe it came from me, yes --</p> <p>12 actually, no, it wasn't the termination;</p> <p>13 because it was the recommendation and then it</p> <p>14 goes -- he had to then go through the process</p> <p>15 of detenure through the board.</p> <p>16 Q. All right --</p> <p>17 A. Until that was completed, he was not</p> <p>18 terminated.</p> <p>19 Q. And the process of detenure; what's</p> <p>20 involved in that?</p> <p>21 A. In accordance with the tenure law</p> <p>22 and there is a process that internally OGC,</p> <p>23 office of general counsel at F.I.T.,</p> <p>24 facilitated with the board.</p> <p>25 Q. Did that process result in Mr. Farmer</p>
<p style="text-align: right;">102</p> <p>1 C. GLASS</p> <p>2 do not answer as it implicates</p> <p>3 attorney/client privilege. The</p> <p>4 report is subject to attorney/client</p> <p>5 privilege.</p> <p>6 MR. SELLS: Again, we'll put it</p> <p>7 in writing and try to get a copy of</p> <p>8 the report.</p> <p>9 Q. But whatever that conclusion was,</p> <p>10 was that relied upon in terminating Dean</p> <p>11 Davis from her employment with F.I.T.?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. (No Response.)</p> <p>14 Q. You could answer.</p> <p>15 A. Yes.</p> <p>16 MR. MELITO: To the extent any</p> <p>17 attorney/client privilege was</p> <p>18 implicated; it was not waived with</p> <p>19 that response.</p> <p>20 Q. And did you agree with that decision</p> <p>21 to fire Dean Davis?</p> <p>22 A. Yes.</p> <p>23 Q. How was Dean Davis notified of her</p> <p>24 termination?</p> <p>25 A. Via letter from me.</p>	<p style="text-align: right;">104</p> <p>1 C. GLASS</p> <p>2 being detenured?</p> <p>3 A. Yes.</p> <p>4 Q. And once he was detenured, was there</p> <p>5 then another recommendation that he be fired</p> <p>6 or was that part of the same process?</p> <p>7 A. It's the same process.</p> <p>8 Q. Now, as a union employee going</p> <p>9 through the detenure process, did he have a</p> <p>10 right to arbitrate or dispute the decision?</p> <p>11 A. He did.</p> <p>12 Q. And did he go through the</p> <p>13 arbitration process?</p> <p>14 A. I believe the process involves an</p> <p>15 arbitrator who hears the case between the</p> <p>16 board and the employee, the tenured employee.</p> <p>17 Q. And do you know if an arbitrator sat</p> <p>18 in judgment on Mr. Farmer's case?</p> <p>19 A. I think, yes.</p> <p>20 Q. All right.</p> <p>21 And did the arbitrator make a</p> <p>22 ruling?</p> <p>23 A. Yes.</p> <p>24 MR. SELLS: We call for the</p> <p>25 production of the arbitration file</p>

<p style="text-align: right;">105</p> <p>1 C. GLASS</p> <p>2 related to Mr. Farmer's termination.</p> <p>3 MR. MELITO: Again, follow up</p> <p>4 in writing and we will respond</p> <p>5 accordingly.</p> <p>6 MR. SELLS: I see it's about</p> <p>7 1:25 and I have something I have to</p> <p>8 do at 1:30; so could we come back in</p> <p>9 let's say 50 minutes?</p> <p>10 MR. MELITO: This will be</p> <p>11 lunch.</p> <p>12 MR. SELLS: Yes, let's make it</p> <p>13 one hour for lunch. We can come back</p> <p>14 at 2:30.</p> <p>15 (Whereupon, a lunch recess was</p> <p>16 taken at 1:25 p.m.; after which, the</p> <p>17 proceedings continued at 2:31 p.m. as</p> <p>18 follows.)</p> <p>19 MR. SELLS: Back on the record.</p> <p>20 Q. Dr. Glass, I think I asked you prior</p> <p>21 to lunch; but I'm going to ask you again.</p> <p>22 Were you in the audience of the</p> <p>23 fashion show that was the cause into Dean</p> <p>24 Davis and Mr. Farmer's conduct?</p> <p>25 MR. MELITO: Objection to form.</p>	<p style="text-align: right;">107</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Derek, do we have</p> <p>3 a caption on this?</p> <p>4 MR. SELLS: Yes. It's a</p> <p>5 caption -- I think it's -- this is</p> <p>6 the Mary Davis lawsuit. This is a</p> <p>7 filing in connection with that.</p> <p>8 Q. Do you recognize this letter,</p> <p>9 Dr. Glass, coming from Dr. Brown to the</p> <p>10 F.I.T. community; do you recall reading this?</p> <p>11 MR. MELITO: Objection.</p> <p>12 MR. DRANOFF: Yes, I don't</p> <p>13 believe this was produced in</p> <p>14 discovery by Plaintiff.</p> <p>15 MR. SELLS: No, this is a</p> <p>16 public filing made by your client,</p> <p>17 Mr. Dranoff.</p> <p>18 MR. DRANOFF: That's fine.</p> <p>19 Q. Are you familiar with this</p> <p>20 statement, Dr. Glass?</p> <p>21 A. Yes, I have seen this.</p> <p>22 MR. SELLS: If we could just</p> <p>23 scroll down a little bit. I'm going</p> <p>24 to read starting with "it also</p> <p>25 appears."</p>
<p style="text-align: right;">106</p> <p>1 C. GLASS</p> <p>2 A. No, I was not.</p> <p>3 Q. Okay.</p> <p>4 So if someone said that you were in</p> <p>5 the audience, that would not be true; is that</p> <p>6 right?</p> <p>7 MR. MELITO: Objection.</p> <p>8 A. That is correct.</p> <p>9 Q. Okay.</p> <p>10 MR. SELLS: If we could put up</p> <p>11 on the screen Plaintiff's Exhibit</p> <p>12 Number 63.</p> <p>13 (Whereupon, Plaintiff's Exhibit</p> <p>14 63, part of a filing made via ECF in</p> <p>15 the New York State system in</p> <p>16 connection with index number 151757</p> <p>17 of 2021, was marked for</p> <p>18 identification as of this date.)</p> <p>19 (The image is shared on the</p> <p>20 computer screen.)</p> <p>21 MR. SELLS: For the record,</p> <p>22 Exhibit 63 is part of a filing made</p> <p>23 via ECF in the New York State system</p> <p>24 connected to index number 151757 of</p> <p>25 2021.</p>	<p style="text-align: right;">108</p> <p>1 C. GLASS</p> <p>2 Q. It says, "It also appears, based</p> <p>3 upon information available, that the styling</p> <p>4 and accessorizing used in the show were</p> <p>5 provided to him rather than at his direction.</p> <p>6 To us, this indicates that those in charge of</p> <p>7 and responsible for overseeing the show</p> <p>8 failed to recognize or anticipate the racist</p> <p>9 references and cultural insensitivities that</p> <p>10 were obvious to almost everybody else.</p> <p>11 That's inexcusable and irresponsible, but</p> <p>12 also why we are commissioning an independent</p> <p>13 investigation."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And do you agree with that?</p> <p>17 MR. MELITO: Objection.</p> <p>18 A. Yes.</p> <p>19 Q. I will now read the name of the firm</p> <p>20 that was commissioned, Bond, Schoeneck &</p> <p>21 King. Are you familiar with that law firm?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. Yes.</p> <p>24 Q. Were they the ones that conducted</p> <p>25 this investigation into Dean Davis' conduct</p>

<p style="text-align: right;">109</p> <p>1 C. GLASS</p> <p>2 as well as Mr. Farmer's conduct?</p> <p>3 MR. MELITO: Again, objection.</p> <p>4 MR. DRANOFF: Objection.</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 MR. SELLS: We can take down</p> <p>8 the document.</p> <p>9 Q. As you can see the president of the</p> <p>10 college now as well as yourself, the head of</p> <p>11 HR, believed that those responsible,</p> <p>12 including Dean Davis and Mr. Farmer, were</p> <p>13 responsible for putting on this racially --</p> <p>14 at best, racially incentive fashion show --</p> <p>15 MR. DRANOFF: Objection.</p> <p>16 MR. MELITO: Objection. This</p> <p>17 is outside the scope of 30(b)(6).</p> <p>18 This is in her personal capacity.</p> <p>19 Q. -- is that correct?</p> <p>20 A. Question?</p> <p>21 (Whereupon, the requested</p> <p>22 portion of the transcript was read</p> <p>23 back.)</p> <p>24 A. They both had responsibility for the</p> <p>25 fashion show.</p>	<p style="text-align: right;">111</p> <p>1 C. GLASS</p> <p>2 incentive manner?</p> <p>3 MR. MELITO: Objection. To the</p> <p>4 extent it implicated attorney/client</p> <p>5 privilege or the report that was</p> <p>6 mentioned earlier, I'm instructing</p> <p>7 the witness not to respond.</p> <p>8 MR. SELLS: Okay.</p> <p>9 Q. What did Dean Davis do wrong in your</p> <p>10 opinion that --</p> <p>11 MR. MELITO: Again --</p> <p>12 Q. -- agree with this statement from</p> <p>13 the exhibit that I have just put up?</p> <p>14 MR. MELITO: Again, in her</p> <p>15 personal capacity.</p> <p>16 A. As the administrator of the Graduate</p> <p>17 School, it was her responsibility to ensure</p> <p>18 that such an incident wouldn't occur.</p> <p>19 Q. Now, did you learn that Dean Davis</p> <p>20 had received complaints from students about</p> <p>21 the fashion show?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. Yes.</p> <p>24 Q. When she received those complaints</p> <p>25 about the racist nature of the fashion show,</p>
<p style="text-align: right;">110</p> <p>1 C. GLASS</p> <p>2 Q. You agree with me, right?</p> <p>3 MR. MELITO: Objection.</p> <p>4 A. Not your entire statement.</p> <p>5 Q. Okay.</p> <p>6 What about my statement don't you</p> <p>7 agree with?</p> <p>8 A. I think both had different roles.</p> <p>9 You categorized them as both putting on the</p> <p>10 fashion show.</p> <p>11 Q. One had an oversight role, that was</p> <p>12 Dean Davis, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And one was Mr. Farmer, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And in your view Dean Davis failed</p> <p>17 to properly oversee what it was that Mr. Farmer</p> <p>18 was doing; is it fair to say?</p> <p>19 MR. MELITO: Objection. She</p> <p>20 can answer in her personal capacity.</p> <p>21 A. Yes.</p> <p>22 Q. Was it determined that this was an</p> <p>23 on-going problem with Dean Davis, that she</p> <p>24 failed to oversee those individuals under her</p> <p>25 supervision that acted in a racially</p>	<p style="text-align: right;">112</p> <p>1 C. GLASS</p> <p>2 did she have an obligation under F.I.T.'s</p> <p>3 policies to report those complaints?</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. Yes, I think that she did.</p> <p>6 Q. My question is first, Did she have a</p> <p>7 responsibility; so your answer to that is,</p> <p>8 yes --</p> <p>9 A. Yes --</p> <p>10 Q. -- is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And who was she required to report</p> <p>13 that to under F.I.T.'s policies?</p> <p>14 MR. MELITO: Objection.</p> <p>15 A. Student complaints generally would</p> <p>16 be to her direct supervisor.</p> <p>17 Q. Is that what it says in the policy?</p> <p>18 She, Dean Davis as the dean, if she receives</p> <p>19 a complaint of race discrimination --</p> <p>20 A. It --</p> <p>21 Q. -- excuse me -- that she's supposed</p> <p>22 to report it to her supervisor; is that the</p> <p>23 way it works?</p> <p>24 MR. DRANOFF: Objection to</p> <p>25 form.</p>

<p style="text-align: right;">113</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form,</p> <p>3 and also outside the scope of her</p> <p>4 30(b)(6). To her personal knowledge.</p> <p>5 A. You said complaint, and then you</p> <p>6 clarified a complaint of discrimination. The</p> <p>7 complaint of discrimination would go to the</p> <p>8 Title 9 Affirmative Action officer.</p> <p>9 Q. All right.</p> <p>10 And if Dean Davis received a</p> <p>11 complaint on February 11th, 2020 by students</p> <p>12 who complained to her about the racist nature</p> <p>13 of the fashion show, her obligation was to</p> <p>14 report that complaint from students to the</p> <p>15 Affirmative Action Office; is that right?</p> <p>16 MR. DRANOFF: Object to the</p> <p>17 form.</p> <p>18 MR. MELITO: Objection to form.</p> <p>19 Again, outside the scope of her</p> <p>20 30(b)(6).</p> <p>21 You may answer.</p> <p>22 A. Yes, it was her obligation to</p> <p>23 report.</p> <p>24 Q. Now, this wasn't the first time that</p> <p>25 Dean Davis has been accused of not reporting</p>	<p style="text-align: right;">115</p> <p>1 C. GLASS</p> <p>2 Ms. Phillips' complaint in 2019 to the</p> <p>3 Affirmative Action Office --</p> <p>4 MR. MELITO: Objection --</p> <p>5 Q. -- and instead told Ms. Phillips to</p> <p>6 talk to someone else and then get back to</p> <p>7 her; you don't recall that?</p> <p>8 A. I don't recall --</p> <p>9 MR. MELITO: Objection to form,</p> <p>10 and outside the scope of her 30(b)(6).</p> <p>11 MR. SELLS: Can we pull up</p> <p>12 Exhibit 29.</p> <p>13 (The image is shared on the</p> <p>14 computer screen.)</p> <p>15 Q. This is a memo to file from</p> <p>16 Ms. Kekana. It has to do with the "October</p> <p>17 7th, 2019 investigation of</p> <p>18 discrimination-race against Brenda Cowan,</p> <p>19 Jonathan Farmer, Marilyn Barton and Mary</p> <p>20 Davis." Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Are you familiar with this document</p> <p>23 that was created, I guess it would have been,</p> <p>24 six months after you were hired?</p> <p>25 A. It's familiar.</p>
<p style="text-align: right;">114</p> <p>1 C. GLASS</p> <p>2 complaints of discrimination that were made</p> <p>3 to her by members of the F.I.T. community,</p> <p>4 including employees, that she failed to then</p> <p>5 report that complaint to the Affirmative</p> <p>6 Action Office; isn't that right?</p> <p>7 MR. MELITO: Objection to form.</p> <p>8 MR. DRANOFF: Object to the</p> <p>9 form as well.</p> <p>10 A. She failed to do what in this -- in</p> <p>11 the fashion show instance.</p> <p>12 Q. No. She failed to do it in regard</p> <p>13 to my client, Ms. Phillips?</p> <p>14 A. I don't know that. I wasn't</p> <p>15 employed at F.I.T. at that time.</p> <p>16 Q. Oh, yes, you were. You don't recall</p> <p>17 that?</p> <p>18 A. The first complaint?</p> <p>19 Q. Yes --</p> <p>20 A. In 2018?</p> <p>21 Q. No, 2019 --</p> <p>22 A. I guess I don't --</p> <p>23 Q. You don't recall having a</p> <p>24 conversation with Ms. Kekana when she spoke</p> <p>25 to you about how Dean Davis failed to report</p>	<p style="text-align: right;">116</p> <p>1 C. GLASS</p> <p>2 Q. Right. Because it was e-mailed to</p> <p>3 you by Ms. Kekana, wasn't it?</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. Likely.</p> <p>6 Q. And in fact, before she even</p> <p>7 e-mailed it to you, she called you and spoke</p> <p>8 to you specifically about it; isn't that</p> <p>9 right?</p> <p>10 MR. MELITO: Objection, form.</p> <p>11 A. It's possible.</p> <p>12 Q. You don't recall; is that your</p> <p>13 answer?</p> <p>14 A. I don't recall it.</p> <p>15 MR. SELLS: If we could go to,</p> <p>16 I guess, it's page -- we can scroll</p> <p>17 down to the second to last page, I</p> <p>18 think.</p> <p>19 Q. In Ms. Kekana's testimony, she says</p> <p>20 with regard to Respondent 4, that was Mary</p> <p>21 Davis. Respondent 3 was Marilyn Barton.</p> <p>22 What she says is that, "Complainant alleges</p> <p>23 that Respondent 4 --" which is Mary Davis "--</p> <p>24 will always side against people of color.</p> <p>25 Respondent 4 stated that when Complainant</p>

<p style="text-align: right;">117</p> <p>1 C. GLASS</p> <p>2 brought forth complaints against Respondent</p> <p>3 3, she instructed the Complainant to speak</p> <p>4 with Respondent 3 and come back to speak with</p> <p>5 her if she had additional issues she wanted</p> <p>6 to discuss. Respondent 4 also stated to</p> <p>7 Complainant that she would speak to</p> <p>8 Respondent 3, which Respondent 4 alleges she</p> <p>9 did."</p> <p>10 Do you see that?</p> <p>11 A. Who's Respondent 3 and 4?</p> <p>12 Q. Respondent 3 is Marilyn Barton and</p> <p>13 Respondent 4 is Mary Davis. The Complainant</p> <p>14 is my client, Marjorie Phillips.</p> <p>15 A. Okay.</p> <p>16 Q. So this was written, you saw it and</p> <p>17 had a conversation with Ms. Kekana about Mary</p> <p>18 Davis failing to report complaints of racial</p> <p>19 discrimination to the Affirmative Action</p> <p>20 Office --</p> <p>21 MR. DRANOFF: Objection --</p> <p>22 MR. MELITO: Objection --</p> <p>23 Q. -- is that right?</p> <p>24 MR. MELITO: -- to form as</p> <p>25 well.</p>	<p style="text-align: right;">119</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form</p> <p>3 as well.</p> <p>4 Q. You see that?</p> <p>5 A. Yes.</p> <p>6 Q. All right.</p> <p>7 So, just to be clear, you knew that</p> <p>8 Mary Davis violated the antiharassment policy</p> <p>9 by failing to escalate the complaint that she</p> <p>10 received from Ms. Phillips to the Affirmative</p> <p>11 Action Office, right?</p> <p>12 MR. MELITO: Objection to form,</p> <p>13 and objection to outside the scope of</p> <p>14 the 30(b) (6).</p> <p>15 MR. DRANOFF: Object to the</p> <p>16 form.</p> <p>17 A. According to the Title 9 officer,</p> <p>18 she did not report it.</p> <p>19 Q. But she said that she would forward</p> <p>20 this report to the Office of Human Resources</p> <p>21 and Management and Labor Relations for</p> <p>22 appropriate review; is that right?</p> <p>23 A. Correct.</p> <p>24 Q. What did you do with it?</p> <p>25 A. I believe I reviewed it and that</p>
<p style="text-align: right;">118</p> <p>1 C. GLASS</p> <p>2 Q. Is that right?</p> <p>3 A. According to this, yes.</p> <p>4 Q. And notwithstanding that -- just</p> <p>5 going back to what you said before. When</p> <p>6 Mary Davis as dean of F.I.T., under F.I.T.'s</p> <p>7 policies, when she receives a complaint of</p> <p>8 discrimination from another employee at</p> <p>9 F.I.T., her responsibility is to report it to</p> <p>10 the Affirmative Action Office, correct?</p> <p>11 MR. DRANOFF: Object to the</p> <p>12 form.</p> <p>13 MR. MELITO: Objection to form.</p> <p>14 A. Yes.</p> <p>15 Q. And notwithstanding the fact that</p> <p>16 Ms. Kekana's investigatory summary clearly</p> <p>17 shows that Mary Davis did not follow the</p> <p>18 proper protocol, Ms. Kekana still found and</p> <p>19 I'll read from her report, "In reviewing the</p> <p>20 context and circumstances of this complaint,</p> <p>21 this investigator is unable to substantiate</p> <p>22 the complaint of discriminatory harassment."</p> <p>23 Do you see that?</p> <p>24 MR. DRANOFF: Object to the</p> <p>25 form.</p>	<p style="text-align: right;">120</p> <p>1 C. GLASS</p> <p>2 this is -- what is the date of this document</p> <p>3 again?</p> <p>4 Q. October 19th -- or October 7th,</p> <p>5 2019. Sorry.</p> <p>6 A. I don't recall if I had a</p> <p>7 conversation with Mary about this; but I</p> <p>8 believe I did. I can't be sure at this</p> <p>9 point.</p> <p>10 Q. A conversation? Why would you have</p> <p>11 a conversation? Why would you have a</p> <p>12 conversation?</p> <p>13 MR. MELITO: Objection and,</p> <p>14 again, this line of questioning is</p> <p>15 outside the scope of 30(b) (6). In</p> <p>16 her personal capacity, she may</p> <p>17 answer.</p> <p>18 A. In terms of closing this file and</p> <p>19 the timeliness of this incident and that</p> <p>20 there were no findings by the Title 9</p> <p>21 officer.</p> <p>22 Q. So, you think you just had a</p> <p>23 conversation with her about it?</p> <p>24 MR. MELITO: Objection.</p> <p>25 A. I -- I don't recall.</p>

<p style="text-align: right;">121</p> <p>1 C. GLASS</p> <p>2 Q. So, in other words, you didn't take</p> <p>3 any action, any disciplinary action or</p> <p>4 corrective action for Dean Davis' failure to</p> <p>5 follow the antiharassment policy; is that</p> <p>6 right?</p> <p>7 A. I may have had a conversation --</p> <p>8 MR. DRANOFF: Objection to</p> <p>9 form.</p> <p>10 MR. MELITO: Object to the form</p> <p>11 as well in case it was cut off.</p> <p>12 THE WITNESS: Sorry.</p> <p>13 MR. MELITO: Just remember to</p> <p>14 pause for moment to allow attorneys</p> <p>15 to object where necessary.</p> <p>16 THE WITNESS: Okay.</p> <p>17 A. I may have had a conversation with</p> <p>18 Mary about the closure of this file.</p> <p>19 Q. When you say you may have, what do</p> <p>20 you think you may have had a conversation</p> <p>21 about?</p> <p>22 A. That there were no findings upon</p> <p>23 review of the reports and the matter would be</p> <p>24 closed.</p> <p>25 Q. You didn't address her failure to</p>	<p style="text-align: right;">123</p> <p>1 C. GLASS</p> <p>2 question, answer the question.</p> <p>3 A. I'm not sure I understand the</p> <p>4 question. Can I rephrase it for you?</p> <p>5 Q. No, that's okay.</p> <p>6 MR. SELLS: Can we take down</p> <p>7 the document.</p> <p>8 Q. Let's put it this way. One of the</p> <p>9 reasons you indicated that there is</p> <p>10 disciplinary measures taken when it comes to</p> <p>11 inappropriate conduct or conduct that doesn't</p> <p>12 meet the level that is required for the job,</p> <p>13 discipline is administered to either correct</p> <p>14 that issue or if it can't be corrected to</p> <p>15 eliminate the person from F.I.T.'s employ; is</p> <p>16 it fair to say?</p> <p>17 A. Yes.</p> <p>18 Q. And so, here you have a situation</p> <p>19 where you are aware and so is the Affirmative</p> <p>20 Action Office that Dean Davis did not live up</p> <p>21 to her responsibilities in dealing with</p> <p>22 Ms. Phillips' complaints of discrimination;</p> <p>23 you knew --</p> <p>24 MR. DRANOFF: Objection to the</p> <p>25 form --</p>
<p style="text-align: right;">122</p> <p>1 C. GLASS</p> <p>2 forward the complaint to the Affirmative</p> <p>3 Action Office; is that correct?</p> <p>4 MR. MELITO: Objection to form.</p> <p>5 MR. DRANOFF: Objection to the</p> <p>6 form as well.</p> <p>7 A. I don't recall.</p> <p>8 Q. Okay.</p> <p>9 Well, if you did tell her that if</p> <p>10 she received complaints of discrimination as</p> <p>11 dean while at F.I.T., that she had a duty to</p> <p>12 report it to the Affirmative Action Office</p> <p>13 and in February of 2020 when the issue came</p> <p>14 up again and she failed to report it to the</p> <p>15 Affirmative Action Office, what would that</p> <p>16 speak to?</p> <p>17 MR. MELITO: Objection to form.</p> <p>18 MR. DRANOFF: Objection to the</p> <p>19 form.</p> <p>20 MR. MELITO: Objection to form</p> <p>21 as well as this is outside the scope</p> <p>22 of 30(b)(6). She may answer in her</p> <p>23 personal capacity.</p> <p>24 A. (No Response.)</p> <p>25 Q. If you are going to answer the</p>	<p style="text-align: right;">124</p> <p>1 C. GLASS</p> <p>2 Q. -- correct?</p> <p>3 MR. MELITO: Objection to form</p> <p>4 as well.</p> <p>5 A. (No Response.)</p> <p>6 Q. You can answer the question.</p> <p>7 A. I knew that there was a complaint</p> <p>8 that was filed initially prior to my arrival</p> <p>9 at F.I.T., and I reviewed the findings. I</p> <p>10 may have had a conversation, I don't recall</p> <p>11 for sure, about closure of the file and there</p> <p>12 was no discipline that came from this case.</p> <p>13 Q. All right.</p> <p>14 And so, here we are now in February</p> <p>15 of 2020 when Dean Davis receives a complaint</p> <p>16 from students, this time of race</p> <p>17 discrimination, in the way that this fashion</p> <p>18 show was conducted and she didn't report it</p> <p>19 to the Affirmative Action Office; is that</p> <p>20 your understanding?</p> <p>21 MR. DRANOFF: Objection to the</p> <p>22 form.</p> <p>23 MR. MELITO: Objection.</p> <p>24 A. I don't know that she did or she</p> <p>25 didn't.</p>

<p style="text-align: right;">125</p> <p>1 C. GLASS</p> <p>2 Q. You don't know. Okay.</p> <p>3 MR. SELLS: We can pull up</p> <p>4 Exhibit 62.</p> <p>5 (Whereupon, Plaintiff's Exhibit</p> <p>6 62, exhibit to Dean Davis'</p> <p>7 opposition, was marked for</p> <p>8 identification as of this date.)</p> <p>9 MR. SELLS: Just for the</p> <p>10 record, this is another filing in an</p> <p>11 affidavit and reply. This is an</p> <p>12 exhibit to Dean Davis' I guess</p> <p>13 opposition. It's the complaint in</p> <p>14 the case. If we could go to page 10 --</p> <p>15 actually page 11 of the complaint.</p> <p>16 MR. MELITO: I'll note, for the</p> <p>17 record, this is outside the scope of</p> <p>18 the 30(b)(6), and any questions</p> <p>19 regarding this Exhibit 62 will be</p> <p>20 made in Dr. Glass' personal capacity.</p> <p>21 Q. If you go to Paragraph 32 in Dean</p> <p>22 Davis's complaint, she says that "on or about</p> <p>23 February 11th, 2020 Dr. Davis was first</p> <p>24 alerted to student concerns about the fashion</p> <p>25 show when two second year students in the</p>	<p style="text-align: right;">127</p> <p>1 C. GLASS</p> <p>2 A. Yes.</p> <p>3 Q. Now, you see from Dean Davis' own</p> <p>4 mouth that when she received complaints of</p> <p>5 race discrimination from students, she did</p> <p>6 not go to the Affirmative Action Office,</p> <p>7 right?</p> <p>8 MR. MELITO: Objection.</p> <p>9 MR. DRANOFF: Objection.</p> <p>10 MR. MELITO: Again, this is</p> <p>11 still outside the scope of the</p> <p>12 30(b)(6). This is in Dr. Glass'</p> <p>13 personal capacity.</p> <p>14 A. That's what the document says.</p> <p>15 Q. And again, as a violation of the</p> <p>16 antiharassment policy which requires a dean,</p> <p>17 if they receive a complaint, to go to the</p> <p>18 Affirmative Action Office, right?</p> <p>19 MR. MELITO: Objection.</p> <p>20 MR. DRANOFF: Object to the</p> <p>21 form.</p> <p>22 A. Yes.</p> <p>23 Q. But instead of going to the</p> <p>24 Affirmative Action Office, she asked the</p> <p>25 students to meet with her and the subject of</p>
<p style="text-align: right;">126</p> <p>1 C. GLASS</p> <p>2 fashion design MFA program e-mail her.</p> <p>3 Dr. Davis promptly responded to the students,</p> <p>4 meeting with both of them the following day."</p> <p>5 The next paragraph, 33, says,</p> <p>6 "Immediately after meeting with the students,</p> <p>7 recognizing the importance and time</p> <p>8 sensitivity of their concern, Dr. Davis</p> <p>9 e-mailed her supervisor, VP Oliva. She</p> <p>10 alerted him that some students had expressed</p> <p>11 concerns that the use of certain accessories</p> <p>12 at the fashion show raised issues about</p> <p>13 F.I.T.'s lack of racial sensitivity. VP</p> <p>14 Oliva replied to Dr. Davis by e-mailing her</p> <p>15 he was too busy to discuss the matter that</p> <p>16 day."</p> <p>17 Paragraph 34, "Dr. Davis, realizing</p> <p>18 that the students concerns warranted</p> <p>19 attention, spoke with Professor Farmer and</p> <p>20 arranged for a meeting with all of the second</p> <p>21 year fashion design MFA students and</p> <p>22 discussed these issues. The meeting was held</p> <p>23 on February 18th, 2020, which was the first</p> <p>24 available date for the students."</p> <p>25 Did I read that correctly?</p>	<p style="text-align: right;">128</p> <p>1 C. GLASS</p> <p>2 the complaint, Kyle Farmer, right?</p> <p>3 MR. MELITO: Objection.</p> <p>4 A. Yes.</p> <p>5 Q. And that's very similar to what she</p> <p>6 did with Ms. Phillips, who she instructed to</p> <p>7 speak with Marilyn Barton regarding her</p> <p>8 complaints of discrimination instead of</p> <p>9 reporting it to the Affirmative Action</p> <p>10 Office, right?</p> <p>11 MR. MELITO: Objection. Again,</p> <p>12 this is in Dr. Glass' personal</p> <p>13 capacity. Objection to the form as</p> <p>14 well.</p> <p>15 A. Yes.</p> <p>16 Q. And so, we have a pattern of Dean</p> <p>17 Davis violating the antiharassment policy by</p> <p>18 trying to cover up complaints of</p> <p>19 discrimination and prevent the Affirmative</p> <p>20 Action Office from getting these complaints,</p> <p>21 right?</p> <p>22 MR. DRANOFF: Objection.</p> <p>23 MR. MELITO: Objection ---</p> <p>24 MR. DRANOFF: Object to the</p> <p>25 form.</p>

<p style="text-align: right;">129</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form</p> <p>3 as well, and again this is in</p> <p>4 Dr. Glass' personal capacity.</p> <p>5 A. Or she could have been trying to</p> <p>6 resolve them at the lowest level, but did not</p> <p>7 report nonetheless.</p> <p>8 Q. But the F.I.T. policy, does it say</p> <p>9 to resolve race discrimination complaints at</p> <p>10 the lowest level; is that what it says?</p> <p>11 MR. MELITO: Objection.</p> <p>12 A. Nope.</p> <p>13 Q. No. But that's what Dean Davis was</p> <p>14 trying to do, she was trying to cover it up</p> <p>15 and keep it from the Affirmative Action</p> <p>16 Office, wasn't she?</p> <p>17 MR. DRANOFF: Object to the</p> <p>18 form.</p> <p>19 MR. MELITO: Objection to the</p> <p>20 form as well and, again, outside the</p> <p>21 scope of the 30(b)(6).</p> <p>22 A. I can't speak to that.</p> <p>23 Q. Well, you just did --</p> <p>24 A. I don't know that.</p> <p>25 Q. -- you --</p>	<p style="text-align: right;">131</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form</p> <p>3 as well. Again, this is in</p> <p>4 Dr. Glass' personal capacity.</p> <p>5 A. I don't know what Mary Davis was or</p> <p>6 wasn't doing during that situation.</p> <p>7 Q. You said that you may have spoken to</p> <p>8 her; isn't that right?</p> <p>9 MR. MELITO: Objection.</p> <p>10 A. You --</p> <p>11 MR. MELITO: You may answer.</p> <p>12 A. I would like you to be more clear</p> <p>13 about which incident you are referring to;</p> <p>14 because if you are referring to the first</p> <p>15 incident when I wasn't there, I would not</p> <p>16 know.</p> <p>17 Q. Well, you were there in October of</p> <p>18 2019?</p> <p>19 A. So please, refer to the incident</p> <p>20 that the complaint that you are questioning</p> <p>21 me about.</p> <p>22 Q. Well, you indicated that you spoke --</p> <p>23 you may have spoken with Dean Davis after you</p> <p>24 saw that October 7th, 2019 report; isn't that</p> <p>25 right?</p>
<p style="text-align: right;">130</p> <p>1 C. GLASS</p> <p>2 A. I don't know that.</p> <p>3 Q. Wait. Hold on. You just said maybe</p> <p>4 she was trying to keep it to resolve it at</p> <p>5 the lowest level possible; isn't that what</p> <p>6 you just said?</p> <p>7 A. I did not say "keep --"</p> <p>8 MR. DRANOFF: Objection.</p> <p>9 MR. MELITO: Objection.</p> <p>10 MR. SELLS: Ms. Simpson, read</p> <p>11 back the answer that we just received</p> <p>12 from Dr. Glass on that question.</p> <p>13 (Whereupon, the requested</p> <p>14 portion of the transcript was read</p> <p>15 back.)</p> <p>16 Q. So, you hear your words, right?</p> <p>17 A. Yes.</p> <p>18 Q. Great. And so, Dean Davis by</p> <p>19 actually having the accuser meet with the</p> <p>20 person accused, who both were under her</p> <p>21 supervision, tried to prevent the escalation</p> <p>22 of those complaints to the Affirmative Action</p> <p>23 Office; isn't that right?</p> <p>24 MR. DRANOFF: Object to the</p> <p>25 form.</p>	<p style="text-align: right;">132</p> <p>1 C. GLASS</p> <p>2 A. After the report was written,</p> <p>3 correct.</p> <p>4 Q. Okay.</p> <p>5 That could have been February of</p> <p>6 2020, could it not?</p> <p>7 MR. MELITO: Objection to form.</p> <p>8 Again, objection this is to --</p> <p>9 outside the scope of the 30(b)(6).</p> <p>10 She can answer in her personal</p> <p>11 capacity.</p> <p>12 A. I --</p> <p>13 Q. Do you understand my question?</p> <p>14 A. I do not.</p> <p>15 Q. February of 2020 came after October</p> <p>16 7th of 2019; is that right?</p> <p>17 A. Correct.</p> <p>18 Q. So when you said that you may have</p> <p>19 talked to her after October 7th of 2019, that</p> <p>20 would include February of 2020 as a</p> <p>21 possibility of when you could have had this</p> <p>22 conversation with Dean Davis, correct?</p> <p>23 MR. MELITO: Objection to form.</p> <p>24 A. If I had a conversation about that</p> <p>25 October report, it would have been following</p>

<p style="text-align: right;">133</p> <p>1 C. GLASS</p> <p>2 the October report within a month at the most</p> <p>3 of that report. It would not have been in</p> <p>4 February.</p> <p>5 Q. Okay.</p> <p>6 So when you spoke to Ms. Davis, did</p> <p>7 you talk to her about not trying to resolve</p> <p>8 race issues, race complaints at the lowest</p> <p>9 level; did you speak to her about that?</p> <p>10 MR. DRANOFF: Object to the</p> <p>11 form.</p> <p>12 MR. MELITO: Object to the form</p> <p>13 as well; and I'll just make a</p> <p>14 standing objection that this is</p> <p>15 outside the 30(b)(6) and any</p> <p>16 responses are in Dr. Glass' personal</p> <p>17 capacity.</p> <p>18 A. I do not recall the exact</p> <p>19 conversation, and I don't want to speculate</p> <p>20 about what that was if I don't recall.</p> <p>21 Q. Okay.</p> <p>22 Now as part of the investigation</p> <p>23 into Dean Davis' conduct with regard to the</p> <p>24 fashion show, did the topic of Dean Davis'</p> <p>25 failure to report student complaints of</p>	<p style="text-align: right;">135</p> <p>1 C. GLASS</p> <p>2 clear, this independent investigation did not</p> <p>3 involve the Affirmative Action Office, and at</p> <p>4 this point, that was run by Ms. Kekana,</p> <p>5 right?</p> <p>6 MR. MELITO: Objection and to</p> <p>7 the -- I think this is breaching</p> <p>8 attorney/client privilege. I would</p> <p>9 instruct not to answer.</p> <p>10 MR. SELLS: Can we have the</p> <p>11 question read back.</p> <p>12 (Whereupon, the requested</p> <p>13 portion of the transcript was read</p> <p>14 back.)</p> <p>15 MR. MELITO: Again, objection.</p> <p>16 Attorney/client privilege.</p> <p>17 MR. SELLS: On what basis?</p> <p>18 MR. MELITO: You're asking what</p> <p>19 a report by outside counsel included</p> <p>20 or not.</p> <p>21 MR. SELLS: No. I didn't say</p> <p>22 the report. I said the</p> <p>23 investigation.</p> <p>24 MR. MELITO: The investigation</p> <p>25 is the report --</p>
<p style="text-align: right;">134</p> <p>1 C. GLASS</p> <p>2 discrimination to the Affirmative Action</p> <p>3 Office, did that come up as part of the</p> <p>4 investigation?</p> <p>5 MR. MELITO: Objection.</p> <p>6 Outside the scope of 30(b)(6).</p> <p>7 In your personal capacity.</p> <p>8 A. Yeah, I believe it did.</p> <p>9 Q. And in what way did it come up?</p> <p>10 MR. MELITO: Again, objection.</p> <p>11 A. That meeting with the students with</p> <p>12 Kyle Farmer was inappropriate.</p> <p>13 Q. And did you speak to Dr. Davis about</p> <p>14 that?</p> <p>15 A. That was the -- I don't think I</p> <p>16 could talk about this without breaching</p> <p>17 attorney/client privilege --</p> <p>18 Q. Okay.</p> <p>19 So you're saying that was one of the</p> <p>20 things that this independent, outside law</p> <p>21 firm -- Bond, Schoeneck -- that's one of the</p> <p>22 things they did look at, right?</p> <p>23 MR. MELITO: Objection.</p> <p>24 A. (No Response.)</p> <p>25 Q. But instead and just so we are</p>	<p style="text-align: right;">136</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: No, it's not --</p> <p>3 MR. MELITO: If you can</p> <p>4 clarify.</p> <p>5 Q. All right.</p> <p>6 I'll do it this way. Is it fair</p> <p>7 to say, is it not, Ms. Glass, that the</p> <p>8 Affirmative Action Office, Ms. Kekana, did not</p> <p>9 investigate whether or not Dean Davis violated</p> <p>10 the antidiscrimination policy by F.I.T. by her</p> <p>11 failure to report complaints of discrimination</p> <p>12 made by students, correct?</p> <p>13 MR. DRANOFF: Object to the</p> <p>14 form.</p> <p>15 MR. MELITO: Objection to form,</p> <p>16 and outside the scope of the</p> <p>17 30(b)(6).</p> <p>18 A. Well, that's probably three</p> <p>19 questions in one. The college can -- engaged</p> <p>20 an external firm to do the investigation. I</p> <p>21 don't know what Ms. Kekana's involvement in</p> <p>22 that investigation was or not.</p> <p>23 Q. All right.</p> <p>24 Well, she testified here on -- last</p> <p>25 week that she had no role in it --</p>

<p style="text-align: right;">137</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection --</p> <p>3 Q. -- so you're saying that you are not</p> <p>4 aware of that?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. I'm not aware of that. I mean, you</p> <p>7 got your answer from her, clearly.</p> <p>8 Q. Okay.</p> <p>9 And so with regard to Dean Davis'</p> <p>10 termination, one of the reasons that she was</p> <p>11 terminated was for her failure to report</p> <p>12 complaints of discrimination that were made</p> <p>13 to her to the Affirmative Action Office;</p> <p>14 isn't that right?</p> <p>15 MR. MELITO: Objection.</p> <p>16 MR. DRANOFF: Object to the</p> <p>17 form.</p> <p>18 A. There were multiple findings in the</p> <p>19 report that lead to her termination.</p> <p>20 Q. All right.</p> <p>21 But I'm not asking you about the</p> <p>22 report --</p> <p>23 A. The investigation --</p> <p>24 Q. -- I'm not asking you about the</p> <p>25 investigation. I'm asking, The reason F.I.T.</p>	<p style="text-align: right;">139</p> <p>1 C. GLASS</p> <p>2 the termination, that would be</p> <p>3 contained in the report which is</p> <p>4 attorney/client privilege.</p> <p>5 MR. SELLS: No.</p> <p>6 Q. Let me ask you this. Were you the</p> <p>7 one that fired Dean Davis?</p> <p>8 MR. MELITO: Objection.</p> <p>9 A. I sent Dean Davis the termination</p> <p>10 letter.</p> <p>11 Q. In the letter, did you list the</p> <p>12 reasons why she was being terminated?</p> <p>13 A. Probably. I'd have to refresh my</p> <p>14 memory of what it said exactly.</p> <p>15 Q. Okay.</p> <p>16 And so, was one of the reasons that</p> <p>17 you put in your letter that Dean Davis,</p> <p>18 instead of reporting the complaints of</p> <p>19 discrimination to the Affirmative Action</p> <p>20 Office made by the students, she instead held</p> <p>21 a meeting with the students on her own with</p> <p>22 Mr. Farmer without reporting it to the</p> <p>23 Affirmative Action Office; is that one of the</p> <p>24 reasons?</p> <p>25 MR. MELITO: Objection.</p>
<p style="text-align: right;">138</p> <p>1 C. GLASS</p> <p>2 fired Dean Davis was in part for her failure</p> <p>3 to report complaints of discrimination that</p> <p>4 were made by students to the Affirmative</p> <p>5 Action Office; isn't that right?</p> <p>6 MR. MELITO: Objection --</p> <p>7 MR. DRANOFF: Object to the</p> <p>8 form.</p> <p>9 MR. MELITO: Objection to form,</p> <p>10 and I'm going to instruct the witness</p> <p>11 not to respond as it may implicate</p> <p>12 attorney/client privilege in that</p> <p>13 report/investigation that has been</p> <p>14 overlapped in this line of</p> <p>15 questioning.</p> <p>16 MR. SELLS: It has nothing to</p> <p>17 do with attorney/client privilege.</p> <p>18 I'm asking the reasons for Dean</p> <p>19 Davis' termination, and they are very</p> <p>20 relevant in this case, so --</p> <p>21 MR. MELITO: If I may, Derek --</p> <p>22 MR. SELLS: What?</p> <p>23 MR. MELITO: If I may give you</p> <p>24 where I'm coming from. If the report</p> <p>25 contained information that lead to</p>	<p style="text-align: right;">140</p> <p>1 C. GLASS</p> <p>2 MR. DRANOFF: Object to the</p> <p>3 form.</p> <p>4 A. Yes.</p> <p>5 Q. Now, you had the ability after you</p> <p>6 read the report that was issued by Ms. Kekana</p> <p>7 to fire Dean Davis for her failure to report</p> <p>8 Ms. Phillips' complaints of discrimination to</p> <p>9 the Affirmative Action Office and instead</p> <p>10 refer Ms. Phillips to speak with Ms. Barton</p> <p>11 and indicate to Ms. Phillips that she too</p> <p>12 would speak with Ms. Barton about those</p> <p>13 complaints. You could have fired her for</p> <p>14 that, correct --</p> <p>15 MR. DRANOFF: Object to the</p> <p>16 form.</p> <p>17 MR. MELITO: Objection to form.</p> <p>18 A. Certainly, disciplinary action could</p> <p>19 be taken.</p> <p>20 Q. But it was your choice not to in the</p> <p>21 case of Ms. Phillips' complaint, right?</p> <p>22 MR. MELITO: Objection.</p> <p>23 MR. DRANOFF: Object to the</p> <p>24 form.</p> <p>25 A. No action was taken -- formal action</p>

<p style="text-align: right;">141</p> <p>1 C. GLASS</p> <p>2 was taken.</p> <p>3 Q. And that's because Ms. Phillips's</p> <p>4 complaint to the Affirmative Action Office at</p> <p>5 F.I.T. that was being investigated even when</p> <p>6 you took over the role of the head of VP or</p> <p>7 the head of -- the VP of Human Relations, her</p> <p>8 complaint was not in the news media, right?</p> <p>9 MR. MELITO: Objection.</p> <p>10 A. Her complaint was unsubstantiated by</p> <p>11 the Title 9 office.</p> <p>12 Q. Right.</p> <p>13 But there was a difference in the</p> <p>14 way that F.I.T. implemented its investigation</p> <p>15 process into complaints of discrimination</p> <p>16 between Ms. Phillips' complaint and the</p> <p>17 complaint that came ultimately from the</p> <p>18 fashion show; isn't that right?</p> <p>19 MR. DRANOFF: Object to the</p> <p>20 form.</p> <p>21 MR. MELITO: Objection to form,</p> <p>22 and objection to outside the scope of</p> <p>23 the 30(b) (6).</p> <p>24 A. (No Response.)</p> <p>25 Q. You can answer.</p>	<p style="text-align: right;">143</p> <p>1 C. GLASS</p> <p>2 that it's still open --</p> <p>3 MR. MELITO: Objection --</p> <p>4 Q. -- right?</p> <p>5 A. (No Response.)</p> <p>6 Q. Is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. And for that whole one year and one</p> <p>9 month period, there was no media, there was</p> <p>10 no news media about Ms. Phillips's complaint,</p> <p>11 correct?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. I'm trying to remember if there was</p> <p>14 any news media.</p> <p>15 Q. Well, as you sit there now, you're</p> <p>16 not aware of any, correct?</p> <p>17 MR. MELITO: Objection to form.</p> <p>18 A. I seem to recall there was</p> <p>19 something.</p> <p>20 Q. At what point in time?</p> <p>21 A. I don't recall.</p> <p>22 Q. But it certainly wasn't when there</p> <p>23 was an internal investigation going on by</p> <p>24 your Affirmative Action Office, correct?</p> <p>25 MR. MELITO: Objection to form.</p>
<p style="text-align: right;">142</p> <p>1 C. GLASS</p> <p>2 A. Both were investigated.</p> <p>3 Q. I'm sorry?</p> <p>4 A. Both situations were investigated.</p> <p>5 Q. Okay.</p> <p>6 So let's take a look at that.</p> <p>7 Ms. Phillips makes a complaint of</p> <p>8 discrimination in March of 2018. More than a</p> <p>9 year before you became the VP of Human</p> <p>10 Relations; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. And nothing had been done with</p> <p>13 regard to Ms. Phillips' complaint as far as a</p> <p>14 resolution to that complaint until October of</p> <p>15 2019; is that right?</p> <p>16 MR. MELITO: Objection to form.</p> <p>17 A. (No Response.)</p> <p>18 Q. You could answer.</p> <p>19 A. There is a timeline that I'm not</p> <p>20 familiar with why it took that long.</p> <p>21 Q. Okay.</p> <p>22 Well, that's why I am asking you.</p> <p>23 You come in April of 2019 and no finish to</p> <p>24 this complaint that Ms. Phillips makes from</p> <p>25 March of 2018, so now it's a year and a month</p>	<p style="text-align: right;">144</p> <p>1 C. GLASS</p> <p>2 A. I don't recall.</p> <p>3 Q. All right.</p> <p>4 Anyway, you get there in April and</p> <p>5 then the very next month, May of 2019 is when</p> <p>6 Ms. Barton verbally attacks Ms. Phillips and</p> <p>7 physically confronts Ms. Phillips and you</p> <p>8 learn about that, right?</p> <p>9 A. Yes.</p> <p>10 Q. And in fact, Ms. Barton threatened</p> <p>11 to kill Ms. Phillips; isn't that right?</p> <p>12 A. That's what she said.</p> <p>13 Q. Okay.</p> <p>14 That's what who said?</p> <p>15 A. It was determined that Marilyn used</p> <p>16 those words.</p> <p>17 Q. Got it.</p> <p>18 And you learned that as early as May</p> <p>19 of 2019, right?</p> <p>20 A. Yes.</p> <p>21 Q. Did you refer that to the</p> <p>22 Affirmative Action Office for investigation?</p> <p>23 MR. MELITO: Objection.</p> <p>24 You may answer.</p> <p>25 A. I was new to the college, and we</p>

<p style="text-align: right;">145</p> <p>1 C. GLASS</p> <p>2 received notice of the incident. And as we</p> <p>3 started to look at what had happened, I don't</p> <p>4 know if I e-mailed or called Delive Kekana,</p> <p>5 because someone had indicated that there was</p> <p>6 a complaint previously; and so yes, we</p> <p>7 discussed it and it was determined that HR</p> <p>8 would continue to investigate the complaint,</p> <p>9 because this was not race-based but a threat</p> <p>10 between colleagues.</p> <p>11 Q. It wasn't race-based.</p> <p>12 Let me ask you this, Who made the</p> <p>13 determination it wasn't race-based?</p> <p>14 A. From what we knew from the</p> <p>15 information at the time, it did not appear</p> <p>16 that it will go to Title 9. That it would be</p> <p>17 a workplace incident that HR would</p> <p>18 investigate.</p> <p>19 Q. No. You said it wasn't race-based.</p> <p>20 I am asking you, Who made the determination</p> <p>21 that this was not -- that Ms. Barton's</p> <p>22 conduct was not race-based?</p> <p>23 A. Delive and I reviewed Natacha</p> <p>24 Unelus, who was the HR generalist for the</p> <p>25 School of Graduate Studies, reviewed it and</p>	<p style="text-align: right;">147</p> <p>1 C. GLASS</p> <p>2 Q. What's "retaliation" under F.I.T.'s</p> <p>3 policies?</p> <p>4 MR. MELITO: Objection.</p> <p>5 Go ahead. You may answer.</p> <p>6 A. The adverse employment action based</p> <p>7 on the filing of a complaint of someone who</p> <p>8 has authority over someone else.</p> <p>9 Q. That's your definition?</p> <p>10 MR. MELITO: Objection to form.</p> <p>11 Q. -- is that right? Anything else?</p> <p>12 A. (No Response.)</p> <p>13 Q. Well, what if someone is not a</p> <p>14 supervisor or has control over their work and</p> <p>15 they assault a person who's made a complaint</p> <p>16 of discrimination against them; that's not</p> <p>17 retaliation?</p> <p>18 MR. MELITO: Objection.</p> <p>19 A. In my experience, that is an issue</p> <p>20 to be investigated under a workplace violence</p> <p>21 policy.</p> <p>22 Q. And why not under whether or not</p> <p>23 it's workplace violence or retaliation; why</p> <p>24 wouldn't you just make that determination</p> <p>25 based upon an investigation? Why would you</p>
<p style="text-align: right;">146</p> <p>1 C. GLASS</p> <p>2 that was not even actually -- it never even</p> <p>3 came up. We looked at the facts of the</p> <p>4 incident and, again, I was not familiar with</p> <p>5 the details of the case and it didn't occur</p> <p>6 to anyone that this was a result of her</p> <p>7 complaint of discrimination or that it was</p> <p>8 based on discrimination. So that is why it</p> <p>9 proceeded that way.</p> <p>10 Q. It was determined that -- is that</p> <p>11 what you just said, that it was determined</p> <p>12 that this had nothing do with her complaint</p> <p>13 of discrimination or discrimination period;</p> <p>14 is that correct?</p> <p>15 A. I said that it was not a topic of</p> <p>16 whether this was -- on it's face, it was a</p> <p>17 threat in the workplace and we did not -- we</p> <p>18 said where do we go? And it was apparent to</p> <p>19 have HR investigate it because it was a</p> <p>20 threat in the workplace.</p> <p>21 Q. Well --</p> <p>22 A. We have a workplace violence policy.</p> <p>23 Q. So, what is "retaliation"?</p> <p>24 MR. MELITO: Objection.</p> <p>25 A. (No Response.)</p>	<p style="text-align: right;">148</p> <p>1 C. GLASS</p> <p>2 automatically consider it to be workplace</p> <p>3 violence and rule out any possibility that it</p> <p>4 could be retaliatory?</p> <p>5 MR. MELITO: Objection to form.</p> <p>6 A. Based on the information we had, it</p> <p>7 was clearly a threat.</p> <p>8 Q. That wasn't related to the</p> <p>9 complaints that Ms. Phillips had brought for</p> <p>10 race discrimination?</p> <p>11 A. Not that I was aware of.</p> <p>12 Q. No?</p> <p>13 A. No.</p> <p>14 Q. Well, where were you getting your</p> <p>15 information?</p> <p>16 A. I consulted with the affirmative</p> <p>17 action officer and -- you'd have to ask her;</p> <p>18 but I don't know if the investigation was</p> <p>19 complete, and she didn't have the report</p> <p>20 complete and that was the delay. But there</p> <p>21 was nothing that was indicated from the</p> <p>22 Affirmative Action Office that this was</p> <p>23 related to race or retaliation.</p> <p>24 Q. What about your office? Did anyone</p> <p>25 from your office say, Hey, you know this, you</p>

<p>149</p> <p>1 C. GLASS</p> <p>2 know, Marilyn's conduct threatening to kill</p> <p>3 Ms. Phillips had to do with complaints that</p> <p>4 Ms. Phillips had raised about discrimination;</p> <p>5 did anyone from your office tell you that?</p> <p>6 A. I think the HR generalist who</p> <p>7 investigated indicated that there were</p> <p>8 problems in the past. But not -- this was</p> <p>9 not a result of that, no.</p> <p>10 MR. SELLS: Okay. Can we pull</p> <p>11 up Exhibit 20.</p> <p>12 (The image is shared on the</p> <p>13 computer screen.)</p> <p>14 MR. SELLS: Actually, this is</p> <p>15 not the one that I'm talking about.</p> <p>16 We can take that down.</p> <p>17 We could put up Exhibit 33.</p> <p>18 (The image is shared on the</p> <p>19 computer screen.)</p> <p>20 MR. SELLS: Just for the</p> <p>21 record, this was marked as</p> <p>22 Plaintiff's Exhibit 33 in Ms. Deliwé</p> <p>23 Kekana's deposition.</p> <p>24 Q. These are notes. Do you recognize</p> <p>25 Natacha Unelus?</p>	<p>151</p> <p>1 C. GLASS</p> <p>2 Q. Had you seen these notes before?</p> <p>3 A. I think so.</p> <p>4 Q. Was this shared with you at or near</p> <p>5 the time that this took place?</p> <p>6 A. They look familiar.</p> <p>7 Q. My question though is, Did you</p> <p>8 review these notes near the time that</p> <p>9 Ms. Barton was questioned?</p> <p>10 A. I don't recall.</p> <p>11 Q. Okay. Well, let's go through them.</p> <p>12 You understand that MB is Marilyn</p> <p>13 Barton and that she was questioned about what</p> <p>14 happened on May 16th; you see that, correct?</p> <p>15 A. I do.</p> <p>16 Q. Okay.</p> <p>17 So let's scroll down. I will not</p> <p>18 read it.</p> <p>19 So she gives her answer. Now, is</p> <p>20 that Natacha Unelus?</p> <p>21 A. Yes.</p> <p>22 Q. All right.</p> <p>23 She asks the question, "Was there</p> <p>24 anything between you and MB when you</p> <p>25 approached her?"</p>
<p>150</p> <p>1 C. GLASS</p> <p>2 A. Yes, she is --</p> <p>3 Q. Who is she?</p> <p>4 A. She is -- was at the time the HR</p> <p>5 generalist who was in charge of the</p> <p>6 investigation.</p> <p>7 Q. Who is Andre Nunez?</p> <p>8 A. The labor relations analyst who took</p> <p>9 notes.</p> <p>10 Q. Does he report to you?</p> <p>11 A. He -- he did, yes.</p> <p>12 Q. Okay.</p> <p>13 Were you informed about this</p> <p>14 conversation between Ms. Barton, Mr. Nunez,</p> <p>15 Ms. Unelus, Mr. Rivera-Perez and</p> <p>16 Ms. Peyton-Jones?</p> <p>17 A. Probably.</p> <p>18 Q. Okay.</p> <p>19 You understand that Mr. Nunez was</p> <p>20 going to be taking notes of that conversation</p> <p>21 with Ms. Barton; you understood that, right?</p> <p>22 A. Yes.</p> <p>23 Q. And according to you, these are the</p> <p>24 notes that he took; is that right?</p> <p>25 A. They appear to be.</p>	<p>152</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: Scroll down to MB's</p> <p>3 answer. Okay.</p> <p>4 Q. She again responds. All right. And</p> <p>5 then a little bit more back and forth.</p> <p>6 And question, "Did you have issues --"</p> <p>7 now this is a question from Natacha. She</p> <p>8 says, "Did you have issues with her prior to</p> <p>9 investigation?" And Marilyn Barton's answer,</p> <p>10 "The environment in the office, it's toxic.</p> <p>11 Been like this for years. I've been pushed</p> <p>12 and pushed. Mary Davis knows about the</p> <p>13 situation, and it is ongoing. I flinch when</p> <p>14 she walks into the room. It's uncomfortable.</p> <p>15 I have spoken to Mary Davis prior. I don't</p> <p>16 tell her every single thing MP ---" Marjorie</p> <p>17 Phillips --- says certain things even to</p> <p>18 other people."</p> <p>19 And the next question through</p> <p>20 Natacha, "It was alleged that you charged</p> <p>21 towards MP. Could you provide a response to</p> <p>22 that?" This is what Marilyn Barton says, "I</p> <p>23 was walking out and I stopped at her desk,</p> <p>24 which is when I was yelling at her. I don't</p> <p>25 deny it. I'm ashamed I lost my temper. I</p>

<p style="text-align: right;">153</p> <p>1 C. GLASS</p> <p>2 was pushed. It was the last straw. Marjorie</p> <p>3 complained about me, it went up to</p> <p>4 Affirmative Action and there still is no</p> <p>5 resolution."</p> <p>6 Do you see that?</p> <p>7 A. Yup.</p> <p>8 Q. Okay.</p> <p>9 So, when you just told us that it</p> <p>10 had nothing to do with her complaint, Marilyn</p> <p>11 Barton says in her own words that this was</p> <p>12 the last straw, the complaint that went up to</p> <p>13 Affirmative Action?</p> <p>14 MR. MELITO: Objection to form --</p> <p>15 Q. Is that right? This is taken from</p> <p>16 your own -- this is taken from your own</p> <p>17 direct report, right?</p> <p>18 MR. MELITO: Objection to form.</p> <p>19 A. It is, and I was still not aware at</p> <p>20 this point of what that investigation was</p> <p>21 about. So --</p> <p>22 Q. Well --</p> <p>23 A. -- we were already in the</p> <p>24 investigation. This is the HR investigation,</p> <p>25 so we continued with the investigation.</p>	<p style="text-align: right;">155</p> <p>1 C. GLASS</p> <p>2 understand what exactly you are referring</p> <p>3 to --</p> <p>4 Q. I'm referring to a statement that</p> <p>5 was taken by your direct report that</p> <p>6 apparently you read in which Marilyn Barton</p> <p>7 admits that she lost her temper and started</p> <p>8 yelling and screaming and threatening</p> <p>9 Marjorie Phillips; because the last straw was</p> <p>10 Marjorie Phillips making a complaint against</p> <p>11 her that went all the way up to the</p> <p>12 Affirmative Action Office --</p> <p>13 MR. DRANOFF: Object to the</p> <p>14 form.</p> <p>15 MR. MELITO: Objection to form --</p> <p>16 Q. -- right, and you see that; you see</p> <p>17 that, correct?</p> <p>18 MR. MELITO: Objection to form.</p> <p>19 A. I see that, and I still --</p> <p>20 Q. Okay. You see that.</p> <p>21 But you did not, you did not, send</p> <p>22 it to the Affirmative Action Office to</p> <p>23 investigate whether or not that was</p> <p>24 retaliation from Marilyn Barton to</p> <p>25 Ms. Phillips as a result of the complaint</p>
<p style="text-align: right;">154</p> <p>1 C. GLASS</p> <p>2 Q. I thought you said it had nothing to</p> <p>3 do with retaliation?</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. When you asked if it was an HR</p> <p>6 investigation or a Title 9 -- Affirmative</p> <p>7 Action investigation, I did not know that at</p> <p>8 the time. And --</p> <p>9 Q. I thought you spoke to Deliwe Kekana --</p> <p>10 A. I think --</p> <p>11 MR. MELITO: Objection.</p> <p>12 A. I think all of these things -- I</p> <p>13 don't remember the sequence of how all of</p> <p>14 this happened. So I want to make it really</p> <p>15 clear that, you know, not to misrepresent me</p> <p>16 because I don't understand where you're going</p> <p>17 and jumping around with all of your</p> <p>18 questions.</p> <p>19 MR. SELLS: We can take down</p> <p>20 the document.</p> <p>21 Q. You don't understand where I'm going</p> <p>22 all of my questions?</p> <p>23 A. The timing of it. Throughout this</p> <p>24 entire deposition you have jumped around a</p> <p>25 lot, so it's very difficult for me to</p>	<p style="text-align: right;">156</p> <p>1 C. GLASS</p> <p>2 Ms. Phillips made that went up to the</p> <p>3 Affirmative Action Office, right?</p> <p>4 MR. MELITO: Objection to form.</p> <p>5 A. I talked to Deliwe. We had</p> <p>6 conversations about where this was most</p> <p>7 appropriate to be investigated and that's</p> <p>8 what was determined.</p> <p>9 Q. Even after Ms. Barton says that her</p> <p>10 attack on Ms. Phillips was because</p> <p>11 Ms. Phillips reported her to the Affirmative</p> <p>12 Action Office, right?</p> <p>13 MR. MELITO: Objection to form.</p> <p>14 A. That's not what the document says.</p> <p>15 Q. I'm sorry?</p> <p>16 A. The document didn't say that was the</p> <p>17 cause. The question that she was asked in</p> <p>18 the interview was, "Were there issues between</p> <p>19 you in the past?"</p> <p>20 Q. Are you --</p> <p>21 MR. SELLS: Can we put this up</p> <p>22 again. I dis-- I'm -- can we put up</p> <p>23 33 again. And just go to the section</p> <p>24 that I just read. It had to do with</p> <p>25 the last straw.</p>

<p style="text-align: right;">157</p> <p>1 C. GLASS</p> <p>2 (The image is shared on the</p> <p>3 computer screen.)</p> <p>4 Q. I'm going to read this again from</p> <p>5 Marilyn Barton, "I was walking out and I</p> <p>6 stopped at her desk which is when I was</p> <p>7 yelling at her. I don't deny it. I am</p> <p>8 ashamed I lost my temper. I was pushed. It</p> <p>9 was the last straw. Marjorie complained</p> <p>10 about me, it went up to Affirmative Action</p> <p>11 and there still is no resolution."</p> <p>12 Did I read that correctly?</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. You could read it correctly; but the</p> <p>15 interpretation, it doesn't say that she --</p> <p>16 MR. SELLS: Okay. You could</p> <p>17 take it down.</p> <p>18 MR. MELITO: You could finish</p> <p>19 your thought, Dr. Glass.</p> <p>20 THE WITNESS: Well, no. I</p> <p>21 don't think so. Thanks.</p> <p>22 Q. You said I could read it correctly,</p> <p>23 but that is not your interpretation --</p> <p>24 A. You can read it --</p> <p>25 Q. -- is that what you said --</p>	<p style="text-align: right;">159</p> <p>1 C. GLASS</p> <p>2 Q. In what way am I not correct?</p> <p>3 A. When you refer to, "it," the</p> <p>4 affirmative action complaint was not the last</p> <p>5 straw. If you read it, she is referring to</p> <p>6 the pattern of behavior that she endured</p> <p>7 overtime, which included a complaint.</p> <p>8 Not that this was a result of a</p> <p>9 complaint which was then retaliation, which</p> <p>10 then would have gone to the Office of</p> <p>11 Affirmative Action. It did not in</p> <p>12 consultation with the Office of Affirmative</p> <p>13 Action.</p> <p>14 Q. So, what was the other conduct that</p> <p>15 lead to this outburst that you consider not</p> <p>16 to be retaliatory; what was the other</p> <p>17 conduct?</p> <p>18 A. The conduct was the interaction --</p> <p>19 well --</p> <p>20 Q. Tell me one thing --</p> <p>21 A. A particular incident -- that</p> <p>22 particular incident, that incident of that</p> <p>23 day is in the statement.</p> <p>24 Q. That incident made her go off and</p> <p>25 start saying to Ms. Phillips -- Marilyn</p>
<p style="text-align: right;">158</p> <p>1 C. GLASS</p> <p>2 A. You could read the words, of course.</p> <p>3 I --</p> <p>4 Q. So you're saying --</p> <p>5 A. If you're asking my personal opinion --</p> <p>6 Q. No, no, no. This is your job,</p> <p>7 right? This was your job for F.I.T.?</p> <p>8 A. I --</p> <p>9 Q. -- you were given this information --</p> <p>10 A. Do you want --</p> <p>11 Q. Hold on. You were given this</p> <p>12 information and you chose to view</p> <p>13 Ms. Barton's own words about being -- this</p> <p>14 being the "last straw" -- this complaint to</p> <p>15 Affirmative Action being the last straw and</p> <p>16 you chose to interpret that as a workplace</p> <p>17 incident as opposed to an act of retaliation;</p> <p>18 is that right? Just so I'm clear, is that</p> <p>19 correct?</p> <p>20 MR. DRANOFF: Object to the</p> <p>21 form.</p> <p>22 MR. MELITO: Object --</p> <p>23 A. No.</p> <p>24 Q. It is not correct?</p> <p>25 A. No, you are not correct.</p>	<p style="text-align: right;">160</p> <p>1 C. GLASS</p> <p>2 Barton said to Ms. Phillips, "I will fucking</p> <p>3 kill you. I will fucking kill you. Shut the</p> <p>4 fuck up. I'm tired of your shit." All of</p> <p>5 that was related to that one incident and not</p> <p>6 to the ongoing complaint and investigation by</p> <p>7 the Affirmative Action Office into</p> <p>8 Ms. Barton's discriminatory acts; is that</p> <p>9 what you are saying?</p> <p>10 MR. MELITO: Objection to form.</p> <p>11 A. There was a pattern of a toxic</p> <p>12 relationship between the two and there was an</p> <p>13 incident that my office investigated.</p> <p>14 Q. I see.</p> <p>15 So that's the way you chose to</p> <p>16 interpret it. But you never asked Ms. Barton</p> <p>17 directly, Were you retaliating against</p> <p>18 Ms. Phillips when you made those statements,</p> <p>19 right?</p> <p>20 MR. MELITO: Objection to form.</p> <p>21 A. Correct.</p> <p>22 Q. And she never denied that she was</p> <p>23 attacking Ms. Phillips verbally and</p> <p>24 physically because it was retaliation, right?</p> <p>25 She never denied that, did she?</p>

<p style="text-align: right;">161</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form.</p> <p>3 A. She was not asked.</p> <p>4 Q. So, it was your department's</p> <p>5 decision not to ask those questions, not to</p> <p>6 even get a denial from Ms. Barton that she</p> <p>7 wasn't retaliating? You chose to make that</p> <p>8 determination on your own; is that right?</p> <p>9 MR. MELITO: Objection to form.</p> <p>10 A. We chose to investigate it the best</p> <p>11 way we knew how considering the seriousness</p> <p>12 of the events.</p> <p>13 Q. I see. So let me get this right.</p> <p>14 Dean Davis, when there is no press</p> <p>15 involved, does not report Ms. Phillips'</p> <p>16 complaint to the Affirmative Action Office.</p> <p>17 She tries to treat it at the lowest level</p> <p>18 possible between her, Ms. Phillips and the</p> <p>19 accused, Ms. Barton. She didn't get a</p> <p>20 reprimand, she didn't get disciplined, there</p> <p>21 is no action taken against her in</p> <p>22 Ms. Phillip's case; is that right?</p> <p>23 MR. MELITO: Objection.</p> <p>24 MR. DRANOFF: Objection.</p> <p>25 MR. MELITO: Objection to form.</p>	<p style="text-align: right;">163</p> <p>1 C. GLASS</p> <p>2 denial from Ms. Barton that she was</p> <p>3 retaliating against Ms. Phillips, having</p> <p>4 Ms. Barton say in a statement to two of your</p> <p>5 direct reports that this was the last straw,</p> <p>6 that a complaint that Ms. Phillips made to</p> <p>7 her went up to Affirmative Action. You</p> <p>8 choose not to have the Affirmative Action</p> <p>9 look at it as a possible retaliation, but you</p> <p>10 treat it as a workplace incident instead,</p> <p>11 right?</p> <p>12 MR. MELITO: Objection to form.</p> <p>13 A. I don't believe Ms. Phillips ever</p> <p>14 used the word "retaliation" during the</p> <p>15 investigation; so therefore, we did not. We</p> <p>16 treated it as -- on it's face, a workplace</p> <p>17 violence issue.</p> <p>18 Q. Oh. So now you're changing. You're</p> <p>19 saying Ms. Phillips never used the term</p> <p>20 "retaliation;" is that right?</p> <p>21 A. That's one piece of it, yeah --</p> <p>22 MR. MELITO: Objection to form --</p> <p>23 Q. Oh --</p> <p>24 A. You're trying to lead me into saying</p> <p>25 some things that, you know, that based on</p>
<p style="text-align: right;">162</p> <p>1 C. GLASS</p> <p>2 A. (No Response.)</p> <p>3 Q. Did you answer? I need an answer.</p> <p>4 A. Again, I am not sure what you are</p> <p>5 trying to get at here.</p> <p>6 Q. I just want an answer. I'm not</p> <p>7 getting at anything. I just want an answer?</p> <p>8 A. Yeah, but your answers are not just --</p> <p>9 I cannot answer "Yes" or "No" to your</p> <p>10 questions.</p> <p>11 MR. SELLS: Please repeat the</p> <p>12 question. Please repeat the</p> <p>13 question.</p> <p>14 (Whereupon, the requested</p> <p>15 portion of the transcript was read</p> <p>16 back.)</p> <p>17 MR. MELITO: Note my objection.</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 And there we have a situation,</p> <p>21 again, with Ms. Phillips, she makes a</p> <p>22 complaint of retaliation and your office</p> <p>23 chooses to treat the allegation against</p> <p>24 Ms. Barton as a workplace incident as opposed</p> <p>25 to an act of retaliation without getting a</p>	<p style="text-align: right;">164</p> <p>1 C. GLASS</p> <p>2 that one statement about the affirmative</p> <p>3 action complaint there were -- there were --</p> <p>4 again, there were -- there were no</p> <p>5 conclusions at that point in time, and we</p> <p>6 treated it as a workplace violence issue,</p> <p>7 period.</p> <p>8 Q. But you're saying that Ms. Phillips</p> <p>9 never said, never said that this was</p> <p>10 retaliation --</p> <p>11 A. I never heard --</p> <p>12 Q. -- from the --</p> <p>13 A. No, I never heard that. I never</p> <p>14 heard that word from anyone.</p> <p>15 Q. You mean you didn't hear it</p> <p>16 directly, but you just saw the notes --</p> <p>17 A. And I disagree with the notes or</p> <p>18 what the intent of that is.</p> <p>19 Q. Hold on. Hold on. Hold on.</p> <p>20 The notes indicate that Ms. Barton</p> <p>21 lost her temper because this was the last</p> <p>22 straw. Ms. Phillips had gone, made a</p> <p>23 complaint that was being investigated with</p> <p>24 the Affirmative Action Office, and it still</p> <p>25 has not been resolved.</p>

<p style="text-align: right;">165</p> <p>1 C. GLASS</p> <p>2 You saw that, right?</p> <p>3 MR. MELITO: Objection to form.</p> <p>4 A. We disagree about the interpretation</p> <p>5 of that language. I believe that it is the</p> <p>6 incident not the complaint.</p> <p>7 MR. SELLS: Can we have Exhibit</p> <p>8 23 again.</p> <p>9 (The image is shared on the</p> <p>10 computer screen.)</p> <p>11 Q. If we could go to the second page.</p> <p>12 Do you recognize this handwriting?</p> <p>13 A. Yeah, I do.</p> <p>14 Q. Whose is it?</p> <p>15 A. It's mine.</p> <p>16 Q. What does it say?</p> <p>17 A. Can we scroll up a little bit.</p> <p>18 Q. Yes.</p> <p>19 A. These are notes related to this</p> <p>20 issue. Marjorie went to the president's</p> <p>21 office. She said she went to the New York</p> <p>22 PD. Somebody from her church reached out to</p> <p>23 SUNY and made it a -- that's where the PR</p> <p>24 issue came in. So this did become a PR issue</p> <p>25 for F.I.T. in terms of SUNY, the notification</p>	<p style="text-align: right;">167</p> <p>1 C. GLASS</p> <p>2 Q. Is that right?</p> <p>3 A. That is my understanding.</p> <p>4 Q. In what capacity did he say he will</p> <p>5 make this public?</p> <p>6 A. I don't know. That he's very --</p> <p>7 he's an elder or something in the Abyssinian</p> <p>8 Church and could make this into a huge PR</p> <p>9 issue for the college.</p> <p>10 Q. That's what you recall about the</p> <p>11 conversation?</p> <p>12 A. That is what I recall.</p> <p>13 Q. Did it become public?</p> <p>14 A. I don't -- I don't remember what</p> <p>15 happened with that. I wasn't in the</p> <p>16 president's office when this happened, and I</p> <p>17 don't know what conversations happened after</p> <p>18 that with him.</p> <p>19 Q. But this is your handwriting; is</p> <p>20 that right?</p> <p>21 A. Correct.</p> <p>22 Q. If we go up you can see it says May</p> <p>23 23rd, right?</p> <p>24 A. Right. Right.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">166</p> <p>1 C. GLASS</p> <p>2 to SUNY, calling the -- I don't know who</p> <p>3 Dr. Butts is or what he did, but there was an</p> <p>4 issue there so -- this is very helpful for</p> <p>5 refreshing my memory. All right. So...</p> <p>6 Q. How does it refresh your</p> <p>7 recollection?</p> <p>8 A. Because you asked a question about,</p> <p>9 you know, the media. Like there was no media</p> <p>10 issue here, so therefore you're --</p> <p>11 Q. What's the media?</p> <p>12 A. -- the college --</p> <p>13 Q. I'm asking what the media is? Tell</p> <p>14 me about the media. What's refreshing my</p> <p>15 recollection about the media?</p> <p>16 A. Yeah. So this is about making it --</p> <p>17 threatening to go public by going the</p> <p>18 chancellor's office in Albany.</p> <p>19 Q. So, you're saying that Ms. Phillips</p> <p>20 threatened to take this public?</p> <p>21 A. I believe that Dr. Butts did.</p> <p>22 MR. MELITO: Objection.</p> <p>23 Q. Dr. Butts threatened to take it</p> <p>24 public?</p> <p>25 MR. MELITO: Objection.</p>	<p style="text-align: right;">168</p> <p>1 C. GLASS</p> <p>2 May 23rd of 2019, right?</p> <p>3 A. Right.</p> <p>4 Q. So that would have been seven days</p> <p>5 after the incident.</p> <p>6 MR. SELLS: Let's scroll to the</p> <p>7 second page now. Stop there.</p> <p>8 A. Yeah. This is actually good because</p> <p>9 this does document my conversation with</p> <p>10 Deliwe when we, obviously, talked about</p> <p>11 whether this is retaliation or not; and she</p> <p>12 said no, that complaint was over a year ago.</p> <p>13 So, yeah. This actually is exactly the</p> <p>14 conversation with Deliwe. I just did not</p> <p>15 remember it.</p> <p>16 Q. Just so we're clear, you write</p> <p>17 Deliwe --</p> <p>18 A. Her name --</p> <p>19 Q. Excuse me. You put a dash then you</p> <p>20 put retaliation, right, with an exclamation</p> <p>21 point --</p> <p>22 MR. MELITO: Objection --</p> <p>23 Q. -- correct?</p> <p>24 A. I --</p> <p>25 Q. Is that what you wrote?</p>

<p style="text-align: right;">169</p> <p>1 C. GLASS</p> <p>2 A. I don't know if that's an</p> <p>3 exclamation mark or a colon.</p> <p>4 Q. Oh. It looks like an exclamation</p> <p>5 point, but you're saying it could be a colon;</p> <p>6 is that correct?</p> <p>7 A. It could be a colon. Yeah, because</p> <p>8 this was about -- this was actually saying,</p> <p>9 "Deliwe, would this be retaliation?" And her</p> <p>10 response was, "No, it was a year ago."</p> <p>11 Q. So, you're saying if a person makes</p> <p>12 a complaint of discrimination and that</p> <p>13 complaint was a year before and the</p> <p>14 investigation still has not concluded when</p> <p>15 someone threatens -- when the person who has</p> <p>16 been accused threatens the person that made</p> <p>17 the accusation that that cannot be</p> <p>18 retaliation? Is that what you're saying?</p> <p>19 MR. MELITO: Objection.</p> <p>20 A. That's what the Title 9 officer and</p> <p>21 I discussed; and she said, "No, it was a year</p> <p>22 ago." And below, again, "Discrimination</p> <p>23 allegation year ago."</p> <p>24 Q. Got it.</p> <p>25 So now, when you had this</p>	<p style="text-align: right;">171</p> <p>1 C. GLASS</p> <p>2 A. I don't recall.</p> <p>3 MR. MELITO: Can we have a</p> <p>4 short five-minute break.</p> <p>5 MR. SELLS: Let's come back</p> <p>6 4:15.</p> <p>7 (Whereupon, a brief recess was</p> <p>8 taken at 3:59 p.m.; after which, the</p> <p>9 proceeding continued at 4:18 p.m. as</p> <p>10 follows.)</p> <p>11 Q. I think we had your notes up on the</p> <p>12 screen that was Exhibit 23.</p> <p>13 (The image is shared on the</p> <p>14 computer screen.)</p> <p>15 MR. SELLS: Matter of fact, we</p> <p>16 are done with this. You could take</p> <p>17 it down.</p> <p>18 Q. Would it surprise you, Dr. Glass,</p> <p>19 that when I showed Ms. Kekana the statement</p> <p>20 from Marilyn Barton -- let me -- you know</p> <p>21 what, before I do that.</p> <p>22 What's F.I.T.'s policy about</p> <p>23 re-opening investigations when you get new</p> <p>24 information?</p> <p>25 MR. MELITO: Objection.</p>
<p style="text-align: right;">170</p> <p>1 C. GLASS</p> <p>2 conversation with Ms. Kekana, did you show</p> <p>3 her or tell her that Marilyn Barton said that</p> <p>4 she lost her temper, that this was the last</p> <p>5 straw, that the complaint that Ms. Phillips</p> <p>6 made against her went to the Affirmative</p> <p>7 Action Office and that the investigation was</p> <p>8 still ongoing? Did you say that to Ms. Deliwe</p> <p>9 Kekana before she gave you this answer?</p> <p>10 MR. MELITO: Objection to form.</p> <p>11 A. You included a lot of things in that</p> <p>12 laundry list, but --</p> <p>13 Q. Would you like it read back?</p> <p>14 A. Yeah, I'll take it piece by piece.</p> <p>15 (Whereupon, the requested</p> <p>16 portion of the transcript was read</p> <p>17 back.)</p> <p>18 A. We had a conversation and discussed</p> <p>19 the issues and what we had known at that</p> <p>20 time. Again, I don't know when that -- the</p> <p>21 notes were actually typed and sent to me and</p> <p>22 I don't recall the specifics. Obviously I</p> <p>23 barely remembered I had notes on this. So I</p> <p>24 don't know.</p> <p>25 Q. Is that what your answer is?</p>	<p style="text-align: right;">172</p> <p>1 C. GLASS</p> <p>2 Q. Is there a policy that says when</p> <p>3 F.I.T. completes an investigation into race</p> <p>4 discrimination and/or retaliation that it</p> <p>5 will not re-open those investigations even if</p> <p>6 it discovers new information?</p> <p>7 MR. MELITO: Objection.</p> <p>8 Outside the scope of 30(b)(6).</p> <p>9 In your personal capacity you</p> <p>10 can answer.</p> <p>11 A. I'm not aware of anything like that.</p> <p>12 Q. Oh, okay. You are not aware of it.</p> <p>13 So it's possible that someone could</p> <p>14 re-open an investigation if new evidence</p> <p>15 comes to light; is that right?</p> <p>16 MR. MELITO: Objection.</p> <p>17 A. I think it depends on the situation,</p> <p>18 yeah.</p> <p>19 Q. Okay.</p> <p>20 Like what; what are some of the</p> <p>21 things that it would depend on?</p> <p>22 MR. MELITO: Again, same</p> <p>23 objection. This is in her personal</p> <p>24 capacity.</p> <p>25 A. If someone came forward and recanted</p>

<p style="text-align: right;">173</p> <p>1 C. GLASS</p> <p>2 what they had provided in information</p> <p>3 originally in the investigation, something</p> <p>4 like that.</p> <p>5 Q. Are you looking at another screen</p> <p>6 right now?</p> <p>7 A. Nope.</p> <p>8 Q. Where is your cell phone?</p> <p>9 A. On the table.</p> <p>10 Q. Okay.</p> <p>11 What are you looking at now?</p> <p>12 A. You.</p> <p>13 Q. Oh. Okay.</p> <p>14 A. You're in the top right corner of my</p> <p>15 screen.</p> <p>16 Q. Got it. Got it. Okay.</p> <p>17 Ms. Kekana, when I read her Marilyn</p> <p>18 Barton's statement about this being the last</p> <p>19 straw and about how she lost her temper</p> <p>20 because of the complaint that Ms. Phillips</p> <p>21 made against her that was elevated to the</p> <p>22 Affirmative Action Office and that was still</p> <p>23 an ongoing investigation, she indicated if</p> <p>24 she knew that she would have asked the case</p> <p>25 be investigated by her for retaliation. Did</p>	<p style="text-align: right;">175</p> <p>1 C. GLASS</p> <p>2 as an issue. And therefore, you were not</p> <p>3 going to look at it as retaliation. Nowhere</p> <p>4 in your notes do you say that, right?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. We clearly ended up talking about</p> <p>7 it.</p> <p>8 Q. That's not my question. Not my</p> <p>9 question. My question was very specific.</p> <p>10 Nowhere in your notes do you say that you're</p> <p>11 not going to treat the investigation into</p> <p>12 Ms. Barton's conduct on May 16th, 2019 as</p> <p>13 retaliatory because Ms. Phillips did not</p> <p>14 raise that as a complaint; you didn't write</p> <p>15 that, did you?</p> <p>16 A. No.</p> <p>17 MR. MELITO: Objection.</p> <p>18 Q. In fact what you wrote and what you</p> <p>19 said was the only reason that you were going</p> <p>20 to treat it as not retaliation was because</p> <p>21 the complaint happened more than a year ago,</p> <p>22 right?</p> <p>23 MR. MELITO: Objection to form.</p> <p>24 A. That's what Deliwé said. In my</p> <p>25 notes that's what I recorded.</p>
<p style="text-align: right;">174</p> <p>1 C. GLASS</p> <p>2 you know that?</p> <p>3 MR. MELITO: Objection to form.</p> <p>4 Q. And so I asked her, I said, Well, if</p> <p>5 you could re-open the investigation, would</p> <p>6 you do that and she said that she would, but</p> <p>7 that under F.I.T.'s policies once an</p> <p>8 investigation was completed, it couldn't be</p> <p>9 re-opened. Did you know that?</p> <p>10 MR. MELITO: Objection.</p> <p>11 Outside the scope of the 30(b)(6).</p> <p>12 She may answer in her personal</p> <p>13 capacity.</p> <p>14 A. I'm not aware of anything formal on</p> <p>15 that.</p> <p>16 Q. Okay.</p> <p>17 But certainly based upon your notes</p> <p>18 as of May 23rd at least, 2019, you were</p> <p>19 already considering whether or not</p> <p>20 Ms. Barton's actions towards Ms. Phillips</p> <p>21 constituted retaliation, right?</p> <p>22 MR. MELITO: Objection to form.</p> <p>23 A. Yes.</p> <p>24 Q. And nowhere in your notes do you say</p> <p>25 that Ms. Phillips did not raise retaliation</p>	<p style="text-align: right;">176</p> <p>1 C. GLASS</p> <p>2 Q. Got it.</p> <p>3 And nothing to do with Ms. Phillips</p> <p>4 not mentioning retaliation, correct?</p> <p>5 MR. MELITO: Objection to form.</p> <p>6 A. Ms. Phillips did not mention</p> <p>7 retaliation, no.</p> <p>8 Q. That is not my question. My</p> <p>9 question is, it is not in your notes, right?</p> <p>10 A. Not in my notes.</p> <p>11 Q. Got it.</p> <p>12 But you considered retaliation as a</p> <p>13 possible issue for the May 16th, 2019 conduct</p> <p>14 of Marilyn Barton, right?</p> <p>15 MR. MELITO: Objection.</p> <p>16 A. Yes, it did come up.</p> <p>17 Q. Okay.</p> <p>18 Now at this point, May 23rd or so of</p> <p>19 2019, where you are aware that Ms. Phillips</p> <p>20 had made these complaints, you're aware that</p> <p>21 Ms. Barton had admitted to the conduct that</p> <p>22 she had been accused of on that May 16th,</p> <p>23 2019 date. Did you get an independent</p> <p>24 investigator to come in and look at it?</p> <p>25 MR. MELITO: Objection to form.</p>

<p style="text-align: right;">177</p> <p>1 C. GLASS</p> <p>2 A. No.</p> <p>3 Q. Now, with regard to the complaints</p> <p>4 that were made about the fashion show, was it</p> <p>5 you that recommended an independent</p> <p>6 investigator come in?</p> <p>7 MR. MELITO: Objection.</p> <p>8 Outside the scope of 30(b)(6). This</p> <p>9 will be in her personal capacity.</p> <p>10 A. No.</p> <p>11 Q. Okay. Who was it that said we need</p> <p>12 an independent investigation going on?</p> <p>13 A. Legal counsel.</p> <p>14 Q. I see.</p> <p>15 So if I understand, do you remember</p> <p>16 what date the fashion show came on?</p> <p>17 A. February of '20.</p> <p>18 Q. Okay.</p> <p>19 But do you remember the exact date?</p> <p>20 A. I don't.</p> <p>21 Q. But you saw the statement, right,</p> <p>22 that the president, Brown, gave about the</p> <p>23 whole we're going to have an independent</p> <p>24 investigator looking at this; do you remember</p> <p>25 that?</p>	<p style="text-align: right;">179</p> <p>1 C. GLASS</p> <p>2 whether they were operating a racially</p> <p>3 insensitive program; isn't that right?</p> <p>4 MR. MELITO: Objection to form,</p> <p>5 and objection to outside the scope of</p> <p>6 the 30(b)(6).</p> <p>7 A. Correct.</p> <p>8 Q. And it was out of your control at</p> <p>9 this point -- when I say your control, I'm</p> <p>10 talking about you as the HR director. It was</p> <p>11 out of your control as to how you were going</p> <p>12 to be able to either fashion it as race</p> <p>13 discrimination or whether it was some other</p> <p>14 form of complaint, you weren't the one making</p> <p>15 those calls that the point, right?</p> <p>16 MR. MELITO: Objection to form.</p> <p>17 Objection to outside the scope of the</p> <p>18 30(b)(6).</p> <p>19 A. Correct.</p> <p>20 Q. And that's because at this point,</p> <p>21 you needed to try, as we come full circle,</p> <p>22 you needed to try and protect the college, to</p> <p>23 protect your employer from liability, right?</p> <p>24 MR. MELITO: Objection to form,</p> <p>25 and objection to outside the scope of</p>
<p style="text-align: right;">178</p> <p>1 C. GLASS</p> <p>2 A. Yes.</p> <p>3 Q. That happened within a month of the</p> <p>4 fashion show, right, that statement was from</p> <p>5 March 2020?</p> <p>6 MR. MELITO: Objection.</p> <p>7 A. Yes.</p> <p>8 Q. But even before the outside lawyers</p> <p>9 were brought in to do this investigation, you</p> <p>10 as well as the president of the college had</p> <p>11 already decided that there was some</p> <p>12 misconduct, or at least that's what you</p> <p>13 opine. That there was misconduct in the way</p> <p>14 that Mary Davis and Kyle Farmer oversaw and</p> <p>15 engaged with the producer of the fashion</p> <p>16 show, correct?</p> <p>17 MR. DRANOFF: Objection --</p> <p>18 MR. MELITO: Objection to form.</p> <p>19 A. I guess you'll have to ask it again.</p> <p>20 Q. I don't need to. I'll just move on.</p> <p>21 At the time that the president,</p> <p>22 President Brown made the statement, that</p> <p>23 public statement, he wrote that public</p> <p>24 letter, that was a time when F.I.T. was</p> <p>25 coming under a lot of public scrutiny about</p>	<p style="text-align: right;">180</p> <p>1 C. GLASS</p> <p>2 the 30(b)(6).</p> <p>3 A. At that point, it was out of my</p> <p>4 hands.</p> <p>5 Q. Exactly.</p> <p>6 And so now, because it was coming</p> <p>7 down, you saw the pictures. Obviously</p> <p>8 "clearly racist fashion show." Someone</p> <p>9 needed to be taken down, right?</p> <p>10 MR. MELITO: Objection to form.</p> <p>11 Objection. Outside the scope of the</p> <p>12 30(b)(6).</p> <p>13 A. There was an investigation to</p> <p>14 determine accountability.</p> <p>15 Q. Got it.</p> <p>16 That was done by someone other than</p> <p>17 you and someone other than Ms. Kekana,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And when the outside investigators,</p> <p>21 as you indicated, came up with whatever</p> <p>22 conclusions they came up with, you and</p> <p>23 President Brown decided you were going to</p> <p>24 fire Mrs. Davis and detainure Mr. Farmer,</p> <p>25 correct?</p>

<p style="text-align: right;">181</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form</p> <p>3 and, again, outside the scope of the</p> <p>4 30(b)(6).</p> <p>5 A. I was involved in the process.</p> <p>6 Q. Right.</p> <p>7 And as you indicated, one of the</p> <p>8 things that you fired Dean Davis for was her</p> <p>9 holding a meeting with students that had</p> <p>10 complained about race discrimination with</p> <p>11 Mr. Farmer without first addressing the</p> <p>12 complaint to the Affirmative Action Office?</p> <p>13 MR. DRANOFF: Object to the</p> <p>14 form.</p> <p>15 MR. MELITO: Objection to form</p> <p>16 as well, and outside the scope of the</p> <p>17 30(b)(6).</p> <p>18 A. That was part of the decision.</p> <p>19 Q. Right.</p> <p>20 But when Ms. Phillips made her</p> <p>21 complaint that Dean Davis didn't bring her</p> <p>22 complaint to the Affirmative Action Office,</p> <p>23 no harm no foul, right; you didn't make that</p> <p>24 an issue at all, right?</p> <p>25 MR. MELITO: Objection to form.</p>	<p style="text-align: right;">183</p> <p>1 C. GLASS</p> <p>2 antidiscrimination policy as it related to</p> <p>3 Ms. Phillips, that your employer, F.I.T.,</p> <p>4 could be held responsible, could be liable in</p> <p>5 a lawsuit, right?</p> <p>6 MR. MELITO: Objection to form.</p> <p>7 MR. DRANOFF: Object to the</p> <p>8 form as well.</p> <p>9 A. I don't understand the question.</p> <p>10 Q. What about the question don't you</p> <p>11 understand?</p> <p>12 A. You're asking me a "yes" or "no"</p> <p>13 question that has a lot of context that needs</p> <p>14 to be explained in order for me to answer it.</p> <p>15 MR. SELLS: Can we have the</p> <p>16 question repeated.</p> <p>17 Q. Tell me what context that you need.</p> <p>18 (Whereupon, the requested</p> <p>19 portion of the transcript was read</p> <p>20 back.)</p> <p>21 A. So, no, I did not make that</p> <p>22 connection, I guess, if that is what you are</p> <p>23 asking. I did not make that connection nor</p> <p>24 did I predict a lawsuit.</p> <p>25 Q. Right.</p>
<p style="text-align: right;">182</p> <p>1 C. GLASS</p> <p>2 Outside the scope of the 30(b)(6).</p> <p>3 A. We were dealing with the issue under</p> <p>4 the workplace violence policy.</p> <p>5 Q. No. No. No. No. This is separate</p> <p>6 and apart from that. This is a complaint, as</p> <p>7 we read before, where, you know, we had the</p> <p>8 Respondent 3 and Respondent 4 and</p> <p>9 Ms. Phillips complained that Respondent 4,</p> <p>10 who was Dean Davis, did not report her</p> <p>11 complaint to the Affirmative Action Office --</p> <p>12 MR. DRANOFF: Object to the</p> <p>13 form --</p> <p>14 Q. -- and instead told her to meet with</p> <p>15 Respondent 3 and then get back to her about</p> <p>16 what she wanted to do, right --</p> <p>17 MR. MELITO: Objection to form --</p> <p>18 Q. -- you didn't discipline Dean Davis</p> <p>19 for that, right?</p> <p>20 MR. MELITO: Objection to form.</p> <p>21 And again, outside the scope of the</p> <p>22 30(b)(6).</p> <p>23 A. She was not disciplined for that.</p> <p>24 Q. Right. And that's because if you</p> <p>25 made a finding that Dean Davis violated the</p>	<p style="text-align: right;">184</p> <p>1 C. GLASS</p> <p>2 That's because you made these</p> <p>3 findings that there was no violation. So you</p> <p>4 thought that would eliminate any chance that</p> <p>5 there would be a lawsuit in this case,</p> <p>6 correct?</p> <p>7 MR. MELITO: Objection to form.</p> <p>8 Outside the scope of the 30(b)(6) as</p> <p>9 well.</p> <p>10 A. What findings are you referring to?</p> <p>11 Q. The findings that Dean Davis did</p> <p>12 nothing wrong as it related to Marjorie</p> <p>13 Phillips, she did nothing wrong?</p> <p>14 A. The college took appropriate action</p> <p>15 and investigated and intervened. That was</p> <p>16 the appropriate action.</p> <p>17 Q. They intervened? You just said that</p> <p>18 Dean Davis received no discipline for her</p> <p>19 failure to report Ms. Phillips' complaint to</p> <p>20 the Affirmative Action Office --</p> <p>21 MR. DRANOFF: Object to the</p> <p>22 form --</p> <p>23 Q. -- but you made a finding that she</p> <p>24 did nothing wrong in Ms. Phillips', correct?</p> <p>25 MR. MELITO: Objection to form.</p>

<p style="text-align: right;">185</p> <p>1 C. GLASS</p> <p>2 A. I -- you know, I don't believe that --</p> <p>3 when the report -- when Deliwe's report came</p> <p>4 out and there were no findings, there was no</p> <p>5 further action taken.</p> <p>6 Q. But you know that Dean Davis</p> <p>7 violated the policy when it came to her</p> <p>8 failure to report Ms. Phillips' complaints of</p> <p>9 discrimination to the Affirmative Action</p> <p>10 Office, right?</p> <p>11 MR. MELITO: Objection --</p> <p>12 MR. DRANOFF: Object to the</p> <p>13 form.</p> <p>14 MR. MELITO: Objection to form</p> <p>15 as well.</p> <p>16 A. There was a policy violation.</p> <p>17 Q. Got it.</p> <p>18 That same policy violation, Dean</p> <p>19 Davis' failure to report complaints of</p> <p>20 discrimination made by students regarding the</p> <p>21 fashion show, got her fired in the case where</p> <p>22 there was an independent investigation not</p> <p>23 controlled by you or Ms. Kekana; isn't that</p> <p>24 right?</p> <p>25 MR. DRANOFF: Objection.</p>	<p style="text-align: right;">187</p> <p>1 C. GLASS</p> <p>2 Q. Do you need the question read back?</p> <p>3 A. I do.</p> <p>4 MR. SELLS: Okay.</p> <p>5 (Whereupon, the requested</p> <p>6 portion of the transcript was read</p> <p>7 back.)</p> <p>8 MR. MELITO: Same objection.</p> <p>9 MR. DRANOFF: You have our</p> <p>10 objections?</p> <p>11 A. The college was responding to an</p> <p>12 issue that involved students and a fashion</p> <p>13 show and decided to conduct an external</p> <p>14 investigation.</p> <p>15 Q. Okay.</p> <p>16 That was into Dean Davis and Kyle</p> <p>17 Farmer, correct?</p> <p>18 A. Yes, and the events of the show.</p> <p>19 Yes.</p> <p>20 Q. Did you know that part of</p> <p>21 Ms. Phillips' complaint was against Mr. Farmer;</p> <p>22 did you know that?</p> <p>23 A. At some point, yes.</p> <p>24 Q. And when did you learn that?</p> <p>25 MR. MELITO: Noting this is in</p>
<p style="text-align: right;">186</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 Objection to the form.</p> <p>4 A. That is not the sole reason she was</p> <p>5 terminated.</p> <p>6 Q. It was one of the reasons, correct?</p> <p>7 MR. DRANOFF: Object to the</p> <p>8 form.</p> <p>9 MR. MELITO: Objection.</p> <p>10 Objection to the form as well.</p> <p>11 A. Yes.</p> <p>12 Q. And again, that's because the school</p> <p>13 was trying to cover its own negative image</p> <p>14 that resulted from the fashion show that was</p> <p>15 clearly racist, right?</p> <p>16 MR. DRANOFF: Object to the</p> <p>17 form.</p> <p>18 MR. MELITO: Objection to form</p> <p>19 as well.</p> <p>20 A. (No Response.)</p> <p>21 Q. You going to answer the question?</p> <p>22 A. Sorry. I didn't know you were</p> <p>23 waiting for a response.</p> <p>24 Q. Yeah, I am.</p> <p>25 A. (No Response.)</p>	<p style="text-align: right;">188</p> <p>1 C. GLASS</p> <p>2 Dr. Glass' personal capacity.</p> <p>3 A. Probably when I got the report from</p> <p>4 Deliwe.</p> <p>5 Q. And that was the first time that you</p> <p>6 learned that Kyle Farmer was part of the</p> <p>7 complaint that Ms. Phillips had raised</p> <p>8 regarding discrimination in the workplace; is</p> <p>9 that correct?</p> <p>10 MR. MELITO: Objection.</p> <p>11 A. I had heard; but that was the first</p> <p>12 time that I had anything in writing or</p> <p>13 related to it. I had heard things that</p> <p>14 were -- his name had come up.</p> <p>15 MR. SELLS: Can we pull up</p> <p>16 Exhibit 29.</p> <p>17 (The image is shared on the</p> <p>18 computer screen.)</p> <p>19 MR. SELLS: If we could scroll</p> <p>20 to "Respondent 2." Right there.</p> <p>21 Q. Just to be clear, "The</p> <p>22 Complainant ---" Ms. Phillips "--- alleged back</p> <p>23 in 2017 Respondent 2 ---" this is Kyle Farmer</p> <p>24 "--- subjected Complainant to discriminatory</p> <p>25 harassment when he stated Complainant looked</p>

<p style="text-align: right;">189</p> <p>1 C. GLASS</p> <p>2 like she was going to the hood as the</p> <p>3 Complainant put her hat on. Complainant</p> <p>4 states that the Respondent apologized</p> <p>5 profusely and he thanked me for saying</p> <p>6 something to him.</p> <p>7 Respondent states that his apology</p> <p>8 was accepted by Complainant and they had</p> <p>9 since the incident had a very good and</p> <p>10 cordial working relationship.</p> <p>11 Based on a preponderance of the</p> <p>12 evidence and the context and circumstances,</p> <p>13 this is investigator finds that the incident</p> <p>14 does not meet the severe persistent or</p> <p>15 pervasive standard of discriminatory</p> <p>16 harassment.</p> <p>17 However, this investigator finds</p> <p>18 this may be more appropriately handled by</p> <p>19 another office. This report will be</p> <p>20 forwarded to the Office of Human Resources</p> <p>21 Management and Labor for appropriate review."</p> <p>22 So with this decision that this</p> <p>23 incident does not meet the severe persistent</p> <p>24 and pervasive standard, what does that have</p> <p>25 to do with F.I.T.'s policies as they relate</p>	<p style="text-align: right;">191</p> <p>1 C. GLASS</p> <p>2 Ms. Phillips's putting on her hat that she</p> <p>3 looks like she's coming from the hood; is</p> <p>4 that right?</p> <p>5 MR. DRANOFF: Objection. You</p> <p>6 misread it.</p> <p>7 MR. MELITO: Objection.</p> <p>8 A. It states, "going to the hood."</p> <p>9 Q. Got it.</p> <p>10 "Going the hood" simply because she</p> <p>11 was putting on her hat; is that right?</p> <p>12 A. Correct.</p> <p>13 MR. MELITO: Objection.</p> <p>14 Q. So, how is that not considered a</p> <p>15 severe form of discrimination that --</p> <p>16 MR. DRANOFF: Object to the</p> <p>17 form --</p> <p>18 Q. -- simply an African-American woman</p> <p>19 putting on her hat suggests that she's going</p> <p>20 the hood; how is that not severe?</p> <p>21 MR. MELITO: Objection to form</p> <p>22 and, again, to outside the scope of</p> <p>23 30(b) (6) .</p> <p>24 A. I was not involved in that</p> <p>25 complaint. So you would have to ask Deliwe.</p>
<p style="text-align: right;">190</p> <p>1 C. GLASS</p> <p>2 to complaints and investigations of</p> <p>3 allegations of discriminatory conduct?</p> <p>4 MR. MELITO: Objection.</p> <p>5 Outside the scope of the 30(b) (6) .</p> <p>6 A. The Affirmative Action Office does</p> <p>7 an investigation and as it states, if there</p> <p>8 are interventions that can be taken from an</p> <p>9 HR perspective, they allow us to take a look</p> <p>10 at it.</p> <p>11 Q. Okay.</p> <p>12 What did your office do with regard</p> <p>13 to Mr. Farmer and the referral from the</p> <p>14 Affirmative Action Office?</p> <p>15 A. We discussed cultural competence</p> <p>16 training and ended up scheduling it and</p> <p>17 requiring everyone in the department to</p> <p>18 attend.</p> <p>19 Q. Cultural, what was it -- competence?</p> <p>20 A. Cultural competence. It's called --</p> <p>21 right now it's called the equity series.</p> <p>22 That is what it is referred to.</p> <p>23 Q. Got it.</p> <p>24 So let me just understand. Mr. Farmer</p> <p>25 says to Ms. Phillips' based upon</p>	<p style="text-align: right;">192</p> <p>1 C. GLASS</p> <p>2 Q. No. She referred it to you.</p> <p>3 A. She --</p> <p>4 Q. -- forward it to the Office of Human</p> <p>5 Resources Management.</p> <p>6 A. Your question was that you asked me</p> <p>7 how was this not severe and pervasive.</p> <p>8 Q. Okay.</p> <p>9 You're saying I would have to ask</p> <p>10 Deliwe, and I cannot get an answer from you?</p> <p>11 A. She investigated this and determined</p> <p>12 that it was not. I don't -- I wasn't there.</p> <p>13 Q. I see.</p> <p>14 But now when Kyle Farmer is charged</p> <p>15 with racist behavior as it relates to him</p> <p>16 picking out accessories for a clearly racist</p> <p>17 fashion show and an outside investigator</p> <p>18 looks at it, he gets fired, right?</p> <p>19 MR. MELITO: Objection to form.</p> <p>20 A. Clearly two different situations.</p> <p>21 Q. Oh, clearly. Tell me how they're</p> <p>22 different?</p> <p>23 MR. MELITO: Objection. Again,</p> <p>24 outside the scope of her 30(b) (6) .</p> <p>25 She may answer in her personal</p>

<p style="text-align: right;">193</p> <p>1 C. GLASS</p> <p>2 capacity.</p> <p>3 A. I think making a comment that is</p> <p>4 clearly uneducated and incentive is not the</p> <p>5 same as insisting that a student wear</p> <p>6 accessories in public. So I think there is a</p> <p>7 degree of difference.</p> <p>8 MR. DRANOFF: Object to the</p> <p>9 form.</p> <p>10 Q. So, let's talk about that. Because</p> <p>11 what does someone look like who's going to</p> <p>12 the hood? Tell me what that person looks</p> <p>13 like.</p> <p>14 MR. MELITO: Objection to form.</p> <p>15 Also objection, this is outside the</p> <p>16 scope of the 30(b)(6).</p> <p>17 A. I don't know.</p> <p>18 Q. You don't know?</p> <p>19 A. I don't know.</p> <p>20 Q. Well in the context of Ms. Phillips'</p> <p>21 complaint, obviously she looked like someone</p> <p>22 going to the hood. So when you say you don't</p> <p>23 know -- you know what Ms. Phillips looks</p> <p>24 like, right? You met her, correct?</p> <p>25 MR. MELITO: Objection.</p>	<p style="text-align: right;">195</p> <p>1 C. GLASS</p> <p>2 choose not to learn what's the basis of the</p> <p>3 comment while you make these decisions?</p> <p>4 MR. MELITO: Objection to form,</p> <p>5 and also object to outside the scope</p> <p>6 of the 30(b)(6), and asked and</p> <p>7 answered.</p> <p>8 A. Delive made the determination about</p> <p>9 the degree of severity of that comment.</p> <p>10 Q. And you were the one that she</p> <p>11 referred this to, correct?</p> <p>12 MR. MELITO: Objection to form.</p> <p>13 A. She referred this to me, and we took</p> <p>14 action.</p> <p>15 Q. Well, did you discipline Mr. Farmer?</p> <p>16 A. It -- it does not meet the severe</p> <p>17 persistent or pervasive standard of</p> <p>18 discriminatory harassment which would dictate</p> <p>19 discipline. However, it may be handled by</p> <p>20 another office and forwarded to HR.</p> <p>21 We did address the fact that</p> <p>22 inappropriate comments, regardless of whether</p> <p>23 I know what they mean or not, the fact that</p> <p>24 she was offended resulted in training and</p> <p>25 development for the entire department.</p>
<p style="text-align: right;">194</p> <p>1 C. GLASS</p> <p>2 A. Yes, I've met her.</p> <p>3 Q. And as a matter of fact, you can see</p> <p>4 her face on this Zoom deposition, can't you?</p> <p>5 MR. MELITO: Objection.</p> <p>6 Q. Look at her. Does she look like she</p> <p>7 is going the hood to you?</p> <p>8 MR. MELITO: Objection. This</p> <p>9 is outside the scope of the 30(b)(6).</p> <p>10 A. This is not about what I think.</p> <p>11 Q. Are you refusing to answer my</p> <p>12 question?</p> <p>13 A. I think it's an inappropriate</p> <p>14 question.</p> <p>15 Q. My question to you is, Does</p> <p>16 Ms. Phillips look like someone to you who is</p> <p>17 going to the hood? That's my question.</p> <p>18 MR. MELITO: Objection. Again,</p> <p>19 this is outside the scope of the</p> <p>20 30(b)(6).</p> <p>21 A. I don't know what "going to the</p> <p>22 hood" means.</p> <p>23 Q. Well then, how could your office</p> <p>24 make determinations about whether someone's</p> <p>25 conduct is severe if you don't even know or</p>	<p style="text-align: right;">196</p> <p>1 C. GLASS</p> <p>2 Q. How is that fair? How is that fair</p> <p>3 that Kyle Farmer could make a statement that</p> <p>4 is wholly racially offensive and the whole</p> <p>5 department has to sit through training</p> <p>6 because of his statement; how is that fair?</p> <p>7 MR. MELITO: Objection, and</p> <p>8 objection to outside the scope of the</p> <p>9 30(b)(6).</p> <p>10 A. That was the college's response</p> <p>11 whether you believe it was fair or not.</p> <p>12 Q. Well, that was your response --</p> <p>13 A. Yeah --</p> <p>14 Q. -- that was your decision, right --</p> <p>15 A. Yeah, in order to --</p> <p>16 MR. MELITO: Objection.</p> <p>17 Go ahead.</p> <p>18 A. That was our response in order to</p> <p>19 ensure that people had an understanding about</p> <p>20 what might be inappropriate language or</p> <p>21 comments that were, according to what I read</p> <p>22 here, apologized profusely and whether -- I</p> <p>23 mean, he's uneducated or whatever. The fact</p> <p>24 that it happened, the college was taking</p> <p>25 measures so that it wouldn't happen again.</p>

<p style="text-align: right;">197</p> <p>1 C. GLASS</p> <p>2 Q. Oh, really; is that what you</p> <p>3 consider this to be?</p> <p>4 MR. MELITO: Objection to form,</p> <p>5 if that is a question.</p> <p>6 A. (No Response.)</p> <p>7 Q. Did you understand my question?</p> <p>8 A. Do I consider this to be; is this</p> <p>9 what I consider this to be?</p> <p>10 Q. Do you consider this to be a measure</p> <p>11 that was aimed at preventing Mr. Farmer from</p> <p>12 making other racially offensive statements or</p> <p>13 comments or exhibit racially offensive</p> <p>14 behavior; did you think that this would</p> <p>15 prevent it?</p> <p>16 MR. MELITO: Objection. Go</p> <p>17 ahead.</p> <p>18 Q. I'm sorry?</p> <p>19 A. That was the intent.</p> <p>20 Q. Oh. So who had to sit through this</p> <p>21 training?</p> <p>22 A. The expectation was that the</p> <p>23 department, everyone in the department would</p> <p>24 participate.</p> <p>25 MR. SELLS: Okay. We can take</p>	<p style="text-align: right;">199</p> <p>1 C. GLASS</p> <p>2 Q. And so, this training that was put</p> <p>3 in place that Ms. Phillips and Ms. Barton,</p> <p>4 Mr. Farmer and other people in the division</p> <p>5 were -- they were required to go, right?</p> <p>6 A. That was the expectation.</p> <p>7 Q. Okay.</p> <p>8 So, this training obviously took</p> <p>9 place sometime after October 7th of 2019,</p> <p>10 when that memo was written, correct?</p> <p>11 MR. MELITO: Objection to form.</p> <p>12 A. Correct.</p> <p>13 Q. And so you forced Ms. Phillips to</p> <p>14 sit in a room with Ms. Barton, a woman who</p> <p>15 had threatened to kill her and who had told</p> <p>16 her to "shut the fuck up" and who had pushed</p> <p>17 her in her chest. You made Ms. Phillips sit</p> <p>18 in a room with her to receive this racial</p> <p>19 sensitivity training; is that correct?</p> <p>20 MR. MELITO: Objection to form.</p> <p>21 Objection to outside the scope of the</p> <p>22 30(b) (6).</p> <p>23 A. We asked everyone to participate.</p> <p>24 Q. Could you answer my specific</p> <p>25 question?</p>
<p style="text-align: right;">198</p> <p>1 C. GLASS</p> <p>2 down the document.</p> <p>3 Q. And that would include Ms. Phillips?</p> <p>4 A. Yes.</p> <p>5 Q. Why was Ms. Phillips included in it?</p> <p>6 MR. MELITO: Objection. Again,</p> <p>7 outside the scope of the 30(b) (6).</p> <p>8 A. She is a member of that team.</p> <p>9 Q. Yeah, but she made the complaint.</p> <p>10 Did anyone say that Ms. Phillips had acted in</p> <p>11 a racially incentive or discriminatory way;</p> <p>12 did anyone do that --</p> <p>13 MR. MELITO: Objection.</p> <p>14 Q. I'm sorry? I'm sorry?</p> <p>15 MR. MELITO: I'm just going to</p> <p>16 renew my objection to this line of</p> <p>17 questioning being outside the scope</p> <p>18 of the 30(b) (6).</p> <p>19 A. There were many people who didn't</p> <p>20 exhibit those behaviors that were included in</p> <p>21 the training for the team.</p> <p>22 Q. All right.</p> <p>23 Well, was Marilyn Barton one of</p> <p>24 them?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">200</p> <p>1 C. GLASS</p> <p>2 A. We asked everyone to participate.</p> <p>3 Q. So the answer is yes, you forced</p> <p>4 Ms. Phillips to sit in a room with</p> <p>5 Ms. Barton, a woman who had told her to "shut</p> <p>6 the fuck up" that she "was gonna fucking kill</p> <p>7 her" and she had pushed her in the chest, you</p> <p>8 made them sit in the same room to receive</p> <p>9 racial sensitivity training; is that right?</p> <p>10 MR. MELITO: Objection to form.</p> <p>11 Objection to outside the scope of the</p> <p>12 30(b) (6) --</p> <p>13 Q. It is either "yes" or "no"?</p> <p>14 A. No.</p> <p>15 Q. You did not?</p> <p>16 A. I did not make anyone sit in that</p> <p>17 room. She actually left the room after she</p> <p>18 was on the phone being consulted -- she was</p> <p>19 participating until -- is what I heard --</p> <p>20 until she was on her phone and someone told</p> <p>21 her to leave. So she went actually was</p> <p>22 sharing.</p> <p>23 Q. Who told you that? Who told you she</p> <p>24 left after -- who told you that Ms. Phillips</p> <p>25 left after speaking to someone on the phone?</p>

<p style="text-align: right;">201</p> <p>1 C. GLASS</p> <p>2 A. The dean that was in the room.</p> <p>3 Q. The dean, someone else who</p> <p>4 Ms. Phillips made a complaint of racial</p> <p>5 discrimination against; is that right? This</p> <p>6 is -- this is way you operate F.I.T.'s</p> <p>7 antidiscrimination policies; is that right?</p> <p>8 MR. MELITO: Objection to form.</p> <p>9 Objection to outside the scope of the</p> <p>10 30(b) (6).</p> <p>11 A. (No Response.)</p> <p>12 Q. You can answer.</p> <p>13 A. The team was expected to participate --</p> <p>14 Q. Got it.</p> <p>15 A. -- whether they did or did not, I</p> <p>16 don't know.</p> <p>17 Q. So, Ms. Phillips is told you got to</p> <p>18 go to this training and in the training is</p> <p>19 Dean Davis, the person that she reports to</p> <p>20 and the person that she made a complaint of</p> <p>21 discrimination about --</p> <p>22 MR. DRANOFF: Objection to the</p> <p>23 form --</p> <p>24 Q. -- she was asked -- that was one of</p> <p>25 the people in the room, correct?</p>	<p style="text-align: right;">203</p> <p>1 C. GLASS</p> <p>2 racist, correct?</p> <p>3 MR. MELITO: Objection to form,</p> <p>4 and outside the scope of the</p> <p>5 30(b) (6).</p> <p>6 A. Kyle was expected to be at that</p> <p>7 training.</p> <p>8 Q. That is not my question.</p> <p>9 A. But you're asking two questions yes</p> <p>10 or no, and they cannot be answered that way.</p> <p>11 Q. All right.</p> <p>12 Was Mr. Farmer the one who selected</p> <p>13 the accessories that were used in that</p> <p>14 clearly racist fashion show?</p> <p>15 MR. MELITO: Objection to form.</p> <p>16 A. Mr. Farmer was responsible for the</p> <p>17 accessories used in the fashion show.</p> <p>18 Q. Got it.</p> <p>19 So that training must have really</p> <p>20 helped, right?</p> <p>21 A. Unfortunately not.</p> <p>22 MR. MELITO: Objection.</p> <p>23 Q. Maybe if you had suspended him or</p> <p>24 given him some type of discipline as a result</p> <p>25 of Ms. Phillips' complaint, then he would</p>
<p style="text-align: right;">202</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 A. Yes.</p> <p>4 Q. Marilyn Barton, another person who</p> <p>5 Ms. Phillips made a complaint about. And</p> <p>6 after the complaint, Ms. Barton -- who is</p> <p>7 aware of the complaint -- accosts her in the</p> <p>8 way that we have described, she was also</p> <p>9 there, correct?</p> <p>10 MR. MELITO: Objection to form.</p> <p>11 A. After --</p> <p>12 MR. MELITO: Again --</p> <p>13 A. -- after she, Marilyn Barton, was</p> <p>14 assessed by the EAP and had gone through</p> <p>15 counseling prior to being asked to</p> <p>16 participate in that training.</p> <p>17 Q. And Mr. Farmer, the one who -- this</p> <p>18 Mr. Hood -- "going to the hood" man, right;</p> <p>19 he was in there too, correct?</p> <p>20 MR. MELITO: Objection to form.</p> <p>21 A. He was asked to attend.</p> <p>22 Q. Right.</p> <p>23 And he was the one that picked out</p> <p>24 those accessories that were used in the</p> <p>25 fashion show that you found to be clearly</p>	<p style="text-align: right;">204</p> <p>1 C. GLASS</p> <p>2 have learned his lesson and F.I.T. wouldn't</p> <p>3 have had those racist accessories, right?</p> <p>4 MR. MELITO: Objection, form.</p> <p>5 Objection, outside the scope of the</p> <p>6 30(b) (6).</p> <p>7 A. I think that's impossible to answer.</p> <p>8 Q. Right, because it didn't happen --</p> <p>9 MR. MELITO: Objection --</p> <p>10 Q. -- he never got disciplined, so he</p> <p>11 just escalated it, right?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. (No Response.)</p> <p>14 Q. Right?</p> <p>15 MR. MELITO: Objection.</p> <p>16 A. Right, what?</p> <p>17 Q. His behavior, his racially incentive</p> <p>18 behavior escalated, got worse --</p> <p>19 A. Correct --</p> <p>20 Q. -- right?</p> <p>21 MR. MELITO: Objection to form,</p> <p>22 and just note outside the scope of</p> <p>23 30(b) (6).</p> <p>24 Q. Just like Dean Davis, she did not</p> <p>25 get any discipline as a result of violating</p>

<p style="text-align: right;">205</p> <p>1 C. GLASS</p> <p>2 the antiharassment policy based on</p> <p>3 Ms. Phillips' complaint and her behavior got</p> <p>4 worse when she received other complaints from</p> <p>5 students regarding the fashion show, correct?</p> <p>6 MR. DRANOFF: Object to the</p> <p>7 form.</p> <p>8 MR. MELITO: Objection to form,</p> <p>9 and objection to outside the scope of</p> <p>10 30(b) (6).</p> <p>11 A. (No Response.)</p> <p>12 Q. You can answer.</p> <p>13 A. It was escalated, correct.</p> <p>14 Q. Now, you mentioned something about</p> <p>15 Marilyn Barton undergoing some type of ---</p> <p>16 what was it; counseling?</p> <p>17 A. Correct.</p> <p>18 Q. How did that come about?</p> <p>19 A. It was clear that the event that</p> <p>20 happened was inappropriate and the college</p> <p>21 requested that she --- actually mandated that</p> <p>22 she have a waiver of confidentiality so that</p> <p>23 the director of the Employee Assistance</p> <p>24 Program could relay information to us whether</p> <p>25 there was a determination of whether she was</p>	<p style="text-align: right;">207</p> <p>1 C. GLASS</p> <p>2 A. To something else.</p> <p>3 Q. Did it have anything to do with race</p> <p>4 complaints?</p> <p>5 A. It did not.</p> <p>6 MR. MELITO: Objection.</p> <p>7 MR. SELLS: I'm calling for the</p> <p>8 production of records related to Kyle</p> <p>9 Farmer's consultation as well as</p> <p>10 Marilyn Barton's consultation.</p> <p>11 MR. MELITO: Just follow up in</p> <p>12 writing, and we will respond</p> <p>13 accordingly.</p> <p>14 Q. Now, did you ask Ms. Phillips to go</p> <p>15 through counseling with Marilyn Barton?</p> <p>16 A. When they were reinstated when, I</p> <p>17 believe, Marjorie was on vacation for five</p> <p>18 weeks and there was a cooling off period,</p> <p>19 Marilyn was in counseling. Marjorie then</p> <p>20 took a leave of absence; and by the time that</p> <p>21 both were returning to work, we attempted the</p> <p>22 training session as well as a joint</p> <p>23 mediation; because clearly there was an issue</p> <p>24 between the two of them.</p> <p>25 Q. So, nothing you said so far</p>
<p style="text-align: right;">206</p> <p>1 C. GLASS</p> <p>2 any danger to herself or others and</p> <p>3 subsequent counseling to discuss the matter</p> <p>4 and what it was that triggered her. I don't</p> <p>5 know anymore specifics.</p> <p>6 Q. Okay.</p> <p>7 And who was this counselor that she</p> <p>8 was assigned to go see?</p> <p>9 A. The director of the Employee</p> <p>10 Assistance Program, Robin Zarel.</p> <p>11 Q. Was anyone else asked to go consult</p> <p>12 with Ms. Zarel?</p> <p>13 A. Kyle had already been consulting</p> <p>14 with Robin Zarel.</p> <p>15 Q. As part of what?</p> <p>16 A. As part of his own personal</p> <p>17 counseling. And so, we asked that --- it</p> <p>18 wasn't mandated, but I think that we --- we</p> <p>19 knew that he was already in counseling.</p> <p>20 Q. Okay.</p> <p>21 So, what was he in counseling for?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. I can't say.</p> <p>24 Q. Was it related to a complaint</p> <p>25 Ms. Phillips made or to something else?</p>	<p style="text-align: right;">208</p> <p>1 C. GLASS</p> <p>2 indicates that Marilyn Barton received any</p> <p>3 discipline; is that right?</p> <p>4 A. She did --</p> <p>5 MR. MELITO: Objection --</p> <p>6 A. -- she did receive discipline.</p> <p>7 Q. What was her discipline?</p> <p>8 A. Her discipline was counseling and</p> <p>9 requirement in training; and she was put on</p> <p>10 notice that if anything like that happened in</p> <p>11 the future, it could result in additional</p> <p>12 discipline up to and including termination.</p> <p>13 Q. So, you're saying giving someone</p> <p>14 notice that if they act in a hostile way or</p> <p>15 some way that violated F.I.T. policy could</p> <p>16 result in further discipline or termination;</p> <p>17 that is a disciplinary measure?</p> <p>18 MR. MELITO: Objection.</p> <p>19 A. That is a written warning, yes.</p> <p>20 Q. Well, that's the same warning that's</p> <p>21 in the employee handbook, isn't it?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. There's a general statement in the</p> <p>24 employee handbook. There's also language in</p> <p>25 the collective bargaining agreement; and any</p>

<p style="text-align: right;">209</p> <p>1 C. GLASS</p> <p>2 first offense typically does not result in</p> <p>3 charges, although it could.</p> <p>4 Q. So, let me understand. So anyone</p> <p>5 reading the collective bargaining agreement,</p> <p>6 that section that says misbehavior can result</p> <p>7 in termination or discipline, is a written</p> <p>8 warning --</p> <p>9 MR. MELITO: Objection --</p> <p>10 Q. -- right?</p> <p>11 A. In a progress discipline situation</p> <p>12 when there is nothing on the record and no</p> <p>13 instances of previous behavioral problems, a</p> <p>14 written warning is appropriate.</p> <p>15 Q. No. My question to you is, If I</p> <p>16 pick up the employee manual and I read the</p> <p>17 section that says "violation of this policy</p> <p>18 could result in discipline or termination,"</p> <p>19 you're saying I have just been given a</p> <p>20 written warning?</p> <p>21 MR. MELITO: Objection to form.</p> <p>22 A. I think that's semantics. That is</p> <p>23 the policy statement; and if there is an</p> <p>24 incident and it's a first offense, then part</p> <p>25 of the progress disciplinary letter indicates</p>	<p style="text-align: right;">211</p> <p>1 C. GLASS</p> <p>2 technical issues was taken at 5:11 p.m.;</p> <p>3 after which, the proceeding continued at</p> <p>4 5:18 p.m. as follows.)</p> <p>5 MR. SELLS: Please, read back</p> <p>6 the last question and answer.</p> <p>7 (Whereupon, the requested</p> <p>8 portion of the transcript was read</p> <p>9 back.)</p> <p>10 A. So, yes. The college determined</p> <p>11 that would be an appropriate intervention,</p> <p>12 and we identified three consultants who do</p> <p>13 mediation work, and we asked the director of</p> <p>14 the EAP to look at their bio's to see which</p> <p>15 one would be most effective because she was</p> <p>16 familiar with this case, and Dr. Kirkland</p> <p>17 Vaughans was selected, and we asked that each</p> <p>18 of them meet with Dr. Vaughans individually</p> <p>19 and then he would determine next steps in</p> <p>20 approach of repairing the relationship.</p> <p>21 Q. Okay.</p> <p>22 Then coming up with this</p> <p>23 determination that counseling and mediation</p> <p>24 and training in a notice would be the proper</p> <p>25 way to handle this, who did you consult with?</p>
<p style="text-align: right;">210</p> <p>1 C. GLASS</p> <p>2 that if there is a future offense, it's very</p> <p>3 likely that it will result in additional</p> <p>4 discipline.</p> <p>5 Q. Got it.</p> <p>6 And so that was your answer to how</p> <p>7 to handle Marilyn Barton's threat to kill</p> <p>8 Ms. Phillips; is that right?</p> <p>9 MR. MELITO: Objection to form.</p> <p>10 Objection outside the scope of the</p> <p>11 30(b) (6).</p> <p>12 A. Based on the review of the</p> <p>13 investigation and consultation with the union</p> <p>14 about the best way to move forward and</p> <p>15 resolve the issue and having had Marilyn on</p> <p>16 suspension, counseling and having it</p> <p>17 determined that she was not a threat to</p> <p>18 herself or others and could be returned to</p> <p>19 the workplace, it was determined that an</p> <p>20 intervention -- my battery is running low,</p> <p>21 which is not good. Charging.</p> <p>22 MR. MELITO: Derek, let's go</p> <p>23 off the record.</p> <p>24 MR. SELLS: Yes, let's go off.</p> <p>25 (Whereupon, a brief recess due to</p>	<p style="text-align: right;">212</p> <p>1 C. GLASS</p> <p>2 A. I consulted with union officers. I</p> <p>3 believe the vice president of the union and</p> <p>4 maybe the vice president of the staff union</p> <p>5 officers about how best to resolve this.</p> <p>6 They felt that --</p> <p>7 Q. What are their names?</p> <p>8 A. Ellen Lynch, Isolina Perez and Amy</p> <p>9 Zaborowski. The union -- each, Marilyn and</p> <p>10 Marjorie, had representation during this</p> <p>11 entire period, and we were consulting on the</p> <p>12 appropriate way to resolve this. They agreed</p> <p>13 and supported this resolution.</p> <p>14 Q. Let me just ask you.</p> <p>15 Ellen Lynch, does she work for</p> <p>16 F.I.T.?</p> <p>17 A. Yes.</p> <p>18 Q. In what capacity?</p> <p>19 A. She is a faculty member who is also</p> <p>20 the vice president of the UCE bargaining</p> <p>21 unit.</p> <p>22 Q. Isolina Perez, is she also an F.I.T.</p> <p>23 employee?</p> <p>24 A. Yes.</p> <p>25 Q. Amy Zaborowski, is she an F.I.T.</p>

<p style="text-align: right;">213</p> <p>1 C. GLASS</p> <p>2 employee?</p> <p>3 A. Yes.</p> <p>4 Q. I see.</p> <p>5 So you call them union officers, but</p> <p>6 in fact they also work for F.I.T., right --</p> <p>7 MR. MELITO: Objection to form.</p> <p>8 A. They are employees of the college</p> <p>9 and receive release time to serve as</p> <p>10 officers.</p> <p>11 Q. Got it.</p> <p>12 But at the end of the day, they</p> <p>13 still have to answer to F.I.T. if they want</p> <p>14 to keep their job, correct?</p> <p>15 MR. MELITO: Objection to form.</p> <p>16 A. I think they have a duty to</p> <p>17 represent that is equally important to them</p> <p>18 in their union roles.</p> <p>19 Q. I'm not asking that.</p> <p>20 At the end of the day, F.I.T. will</p> <p>21 decide whether Ellen Lynch, Isolina Perez or</p> <p>22 Amy Zaborowski are doing their F.I.T. jobs</p> <p>23 appropriately enough to keep them; is that</p> <p>24 correct?</p> <p>25 MR. MELITO: Objection to form,</p>	<p style="text-align: right;">215</p> <p>1 C. GLASS</p> <p>2 A. I do know that it was determined by</p> <p>3 the counselor that she was fit for duty.</p> <p>4 Q. Oh. The counselor that was being</p> <p>5 paid by F.I.T.; is that correct?</p> <p>6 MR. MELITO: Objection.</p> <p>7 A. The counselor who is employed as the</p> <p>8 director of the joint labor management</p> <p>9 Employee Assistance Program.</p> <p>10 Q. Is that F.I.T. run?</p> <p>11 A. It is governed by both parties. It</p> <p>12 is paid for by F.I.T. as part of the</p> <p>13 agreement.</p> <p>14 Q. F.I.T. There you go.</p> <p>15 And the mediation, the mediator, who</p> <p>16 paid to the best of your recollection that?</p> <p>17 A. The --</p> <p>18 MR. MELITO: Objection --</p> <p>19 A. -- the college.</p> <p>20 Q. F.I.T., got it. Okay.</p> <p>21 So, Ms. Phillips makes a complaint</p> <p>22 of discrimination and retaliation; although</p> <p>23 you say it was a -- it was a what, a colon</p> <p>24 not an exclamation point -- but nonetheless,</p> <p>25 you considered retaliation and you know that</p>
<p style="text-align: right;">214</p> <p>1 C. GLASS</p> <p>2 and outside the scope of the</p> <p>3 30(b)(6).</p> <p>4 A. If they were not performing their</p> <p>5 jobs or there was an issue, they would be</p> <p>6 subject to the collective bargaining</p> <p>7 agreement like the rest of them are.</p> <p>8 Q. Just so I'm clear.</p> <p>9 When Marilyn Barton said repeatedly</p> <p>10 to Marjorie Phillips that she was gonna</p> <p>11 fucking kill her, oh, you thought that, oh,</p> <p>12 she just needs a little counseling, right?</p> <p>13 MR. MELITO: Objection to form,</p> <p>14 and objection to outside the scope of</p> <p>15 the 30(b)(6).</p> <p>16 A. I thought it was a serious situation</p> <p>17 that could ultimately be resolved through</p> <p>18 mediation, yes.</p> <p>19 Q. Okay.</p> <p>20 How much counseling did she receive?</p> <p>21 A. I don't know that.</p> <p>22 Q. But yet she was allowed to come back</p> <p>23 even if you do not know how much counseling</p> <p>24 she went through, correct?</p> <p>25 MR. MELITO: Objection to form.</p>	<p style="text-align: right;">216</p> <p>1 C. GLASS</p> <p>2 under the law an employee who raised</p> <p>3 complaints of discrimination and retaliation</p> <p>4 can also sue their employer for compensation</p> <p>5 related to those allegations, correct?</p> <p>6 MR. MELITO: Objection to form.</p> <p>7 A. Yes.</p> <p>8 Q. And you know that in order for an</p> <p>9 employee to win a liability judgment against</p> <p>10 their employer, they would have to prove that</p> <p>11 they were discriminated against and/or</p> <p>12 retaliated against before they could actually</p> <p>13 win that liability judgment; you know that,</p> <p>14 right?</p> <p>15 MR. MELITO: Objection to form,</p> <p>16 objection to the conclusion and</p> <p>17 objection outside the scope of the</p> <p>18 30(b)(6).</p> <p>19 A. I'm not an attorney, so I don't know</p> <p>20 the intricacies of the lawsuit.</p> <p>21 Q. So because you are not an attorney,</p> <p>22 are you saying that you don't realize that a</p> <p>23 plaintiff in a civil suit related to</p> <p>24 discrimination in the workplace has to prove</p> <p>25 their case with evidence; you are not aware</p>

<p style="text-align: right;">217</p> <p>1 C. GLASS</p> <p>2 of that?</p> <p>3 MR. MELITO: Objection to form,</p> <p>4 and outside the scope of the</p> <p>5 30(b)(6).</p> <p>6 A. That was different than your first</p> <p>7 question. I am aware that they have to prove</p> <p>8 their case.</p> <p>9 Q. Got it.</p> <p>10 And do you think it would be easier</p> <p>11 to prove their case if the HR director or the</p> <p>12 Affirmative Action director for their</p> <p>13 employer made a determination that they were</p> <p>14 discriminated against?</p> <p>15 MR. MELITO: Objection to form.</p> <p>16 And again, outside the scope of the</p> <p>17 30(b)(6).</p> <p>18 A. What is your question?</p> <p>19 MR. SELLS: Please read it</p> <p>20 back.</p> <p>21 (Whereupon, the requested</p> <p>22 portion of the transcript was read</p> <p>23 back.)</p> <p>24 A. Would it be easier? Perhaps, but</p> <p>25 that is not how I go into investigations.</p>	<p style="text-align: right;">219</p> <p>1 C. GLASS</p> <p>2 30(b)(6).</p> <p>3 A. I think it depends on the facts of</p> <p>4 the case and what actually happened.</p> <p>5 Q. So are you saying that, no, that it</p> <p>6 wouldn't make it more difficult?</p> <p>7 A. I don't know that in and of itself.</p> <p>8 I don't know that. I'm not an attorney. I'm</p> <p>9 not making an assumption about how a case</p> <p>10 would land; I can't do that.</p> <p>11 Q. I'm not asking how it's going to</p> <p>12 land. I'm asking, would it make it more</p> <p>13 difficult? If on one hand they sustain it</p> <p>14 and say yes, you were discriminated against,</p> <p>15 that would make it easier. You're saying if</p> <p>16 you said no, if an HR person and an</p> <p>17 Affirmative Action coordinator would say no,</p> <p>18 that somehow it wouldn't make it more</p> <p>19 difficult? I'm not saying impossible, but</p> <p>20 more difficult?</p> <p>21 MR. DRANOFF: Object to the</p> <p>22 form.</p> <p>23 MR. MELITO: Objection to form</p> <p>24 and again, outside the scope of the</p> <p>25 30(b)(6).</p>
<p style="text-align: right;">218</p> <p>1 C. GLASS</p> <p>2 Q. When you say "perhaps," what does</p> <p>3 "perhaps" mean? Wouldn't it be easier -- if</p> <p>4 an employee has to prove that they were</p> <p>5 discriminated against, they make a complaint</p> <p>6 to their employer, their employer has an HR</p> <p>7 director and/or an Affirmative Action</p> <p>8 coordinator who looks at the complaint and</p> <p>9 says you know what, yeah, you were</p> <p>10 discriminated against. You're saying that</p> <p>11 wouldn't make it easier for them to prove</p> <p>12 their case in court?</p> <p>13 MR. MELITO: Objection to form.</p> <p>14 And again, outside the scope of the</p> <p>15 30(b)(6).</p> <p>16 A. I could speculate it could depending</p> <p>17 upon the allegations in the case.</p> <p>18 Q. And if the same employee made the</p> <p>19 same complaint and the HR director and the</p> <p>20 Affirmative Action coordinator decide, no,</p> <p>21 your allegations are not substantiated; that</p> <p>22 would make it more difficult for them to</p> <p>23 prove their case in court, right?</p> <p>24 MR. MELITO: Objection to form.</p> <p>25 And outside the scope of the</p>	<p style="text-align: right;">220</p> <p>1 C. GLASS</p> <p>2 A. I don't know.</p> <p>3 Q. Okay.</p> <p>4 What about that don't you know?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. I don't know the decision, how much</p> <p>7 weight that would carry or the burden of</p> <p>8 whatever it is that has to be proven. So, I</p> <p>9 can -- I don't know. I think that it's...</p> <p>10 Q. Got it.</p> <p>11 Getting back to, "I will fucking</p> <p>12 kill you." Is that a -- is that like -- has</p> <p>13 anyone ever threatened to kill you?</p> <p>14 MR. MELITO: Objection to form.</p> <p>15 Outside the scope of the 30(b)(6),</p> <p>16 teetering on harassing the witness.</p> <p>17 A. (No Response.)</p> <p>18 Q. You could answer.</p> <p>19 A. No, actually I'm not going to answer</p> <p>20 that.</p> <p>21 Q. And why not? Why won't you answer</p> <p>22 it?</p> <p>23 A. I think that's an inappropriate</p> <p>24 question.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">221</p> <p>1 C. GLASS</p> <p>2 You might think so; but why won't</p> <p>3 you answer it? That's not a basis not to</p> <p>4 answer --</p> <p>5 MR. MELITO: Derek, if I may.</p> <p>6 Unless I instruct you not to, please</p> <p>7 answer the question.</p> <p>8 A. I have been threatened.</p> <p>9 Q. Tell me.</p> <p>10 A. And I'm not going into anymore</p> <p>11 details.</p> <p>12 Q. Was it very traumatizing for you?</p> <p>13 MR. MELITO: Now, I will cut</p> <p>14 this off. It is obviously a personal</p> <p>15 matter, and it is not subject to this</p> <p>16 lawsuit.</p> <p>17 I'm instructing the witness not</p> <p>18 to answer.</p> <p>19 MR. SELLS: Okay. Well, I hear</p> <p>20 your -- I respect your objection.</p> <p>21 I'm going to pursue this.</p> <p>22 Q. You were the one that decided that</p> <p>23 when Ms. Phillips had those words said to her</p> <p>24 that she was going to be killed, it was your</p> <p>25 decision to tell the person that said that to</p>	<p style="text-align: right;">223</p> <p>1 C. GLASS</p> <p>2 threatened multiple times --</p> <p>3 MR. SELLS: Can we pull up</p> <p>4 Exhibit 21.</p> <p>5 (The image is shared on the</p> <p>6 computer screen.)</p> <p>7 Q. Now, do you recall Umlita Alsop was</p> <p>8 interviewed in connection with this May 16th,</p> <p>9 2019 incident by your direct reports?</p> <p>10 A. Yes.</p> <p>11 Q. Do you recognize this to be her</p> <p>12 statement, her witness statement?</p> <p>13 A. Yes.</p> <p>14 MR. SELLS: If we could just</p> <p>15 scroll down. Stop.</p> <p>16 Q. I will read. "Marlin then</p> <p>17 reiterated that she didn't care about</p> <p>18 Marjorie's opinion and added that she was</p> <p>19 tired of this shit. Marilyn continued on in</p> <p>20 a progressively loud tone saying to Marjorie,</p> <p>21 'I don't care what you think. I'm sick of</p> <p>22 you. Shut the fuck up.' Marjorie then said,</p> <p>23 'I will not shut up. This is my opinion.'"</p> <p>24 Okay?</p> <p>25 "Marilyn seemed to grow angry as she</p>
<p style="text-align: right;">222</p> <p>1 C. GLASS</p> <p>2 her that you could stay in your job and get</p> <p>3 paid, which is not discipline, that you would</p> <p>4 get read a warning that says if you do</p> <p>5 something like this again, you could be</p> <p>6 disciplined and possibly fired, that the</p> <p>7 person would have to undergo some kind of</p> <p>8 counseling and training and mediation and you</p> <p>9 are able to talk about that, about</p> <p>10 Ms. Phillips who received a threat, a death</p> <p>11 threat; isn't that right? You just did that,</p> <p>12 correct?</p> <p>13 MR. MELITO: Objection to form.</p> <p>14 Objection, outside the scope of the</p> <p>15 30(b) (6) .</p> <p>16 A. We dealt with a workplace violence</p> <p>17 issue.</p> <p>18 Q. Got it.</p> <p>19 That's the way you describe it.</p> <p>20 Ms. Phillips described it as a threat to be</p> <p>21 killed on multiple occasions, right?</p> <p>22 MR. MELITO: Objection to form.</p> <p>23 A. No.</p> <p>24 Q. No?</p> <p>25 A. What are multiple occasion? She was</p>	<p style="text-align: right;">224</p> <p>1 C. GLASS</p> <p>2 began screaming even louder saying, 'I'm</p> <p>3 tired of your shit. Shut the fuck up. I</p> <p>4 will fuck you up.' Marilyn then, in what I</p> <p>5 would describe as an aggressive manner, left</p> <p>6 her desk area and walked over to Marjorie</p> <p>7 while screaming, 'I will fuck you up. I will</p> <p>8 fucking kill you.' At this point, she was</p> <p>9 within inches of Marjorie. Marilyn was</p> <p>10 standing over Marjorie's desk with literal</p> <p>11 spit, foam coming from her mouth as she</p> <p>12 repeated this threat over and over."</p> <p>13 Do you hear that? Over and over.</p> <p>14 "I will fuck you up. I will fucking kill</p> <p>15 you." Over and over. Let's keep going.</p> <p>16 "I tried to get Marilyn's attention</p> <p>17 by calling out to her a few times, but she</p> <p>18 did not appear to hear me. She continued to</p> <p>19 yell and scream while standing over</p> <p>20 Marjorie's desk. 'I am serious --'" quote,</p> <p>21 unquote 'I am serious. I will fuck you up.</p> <p>22 I will fucking kill you.'"</p> <p>23 Do you see that?</p> <p>24 A. (No Response.)</p> <p>25 Q. Do you see that?</p>

<p style="text-align: right;">225</p> <p>1 C. GLASS</p> <p>2 A. I do.</p> <p>3 Q. And you read this, right?</p> <p>4 A. I read this.</p> <p>5 MR. SELIS: You can take down</p> <p>6 the document.</p> <p>7 Q. And after that you said, Oh, whoa.</p> <p>8 You can't -- we're gonna pay you, you're</p> <p>9 gonna keep your job, don't worry. All you</p> <p>10 have to do is get some counseling, do a</p> <p>11 little mediation and go through training and</p> <p>12 that's it, right? That is what you decided</p> <p>13 to do when it came to the complaint that</p> <p>14 Ms. Phillips made that she was threatened on</p> <p>15 multiple occasions, that she was gonna be</p> <p>16 fucking killed and that the woman who told</p> <p>17 her that she was gonna be fucking killed said</p> <p>18 that she was serious, right?</p> <p>19 MR. MELITO: Objection --</p> <p>20 Q. Is that right --</p> <p>21 MR. MELITO: -- to form.</p> <p>22 Objection.</p> <p>23 Q. Is that right?</p> <p>24 A. Your earlier question about multiple</p> <p>25 occasions was unclear --</p>	<p style="text-align: right;">227</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: I'm just going to</p> <p>3 object to form.</p> <p>4 A. That was consistent with the</p> <p>5 approach to discipline at the college in</p> <p>6 terms of first offenses. And to my</p> <p>7 knowledge, there was -- there were other</p> <p>8 egregious -- this was egregious. There were</p> <p>9 other egregious cases in the past that I</p> <p>10 don't have -- I'm not privy to, that did not</p> <p>11 result in discharge.</p> <p>12 Q. But in Ms. Barton's case, she didn't</p> <p>13 even get disciplined, right?</p> <p>14 A. I disagree.</p> <p>15 MR. MELITO: Objection to form.</p> <p>16 Q. Okay.</p> <p>17 But you already indicated that a</p> <p>18 suspension without pay is not discipline,</p> <p>19 right?</p> <p>20 MR. MELITO: Objection to form.</p> <p>21 A. It is part of the disciplinary</p> <p>22 process and there was written documentation</p> <p>23 in her file, which in this environment is</p> <p>24 significant.</p> <p>25 Q. I'm sorry. Are you changing your</p>
<p style="text-align: right;">226</p> <p>1 C. GLASS</p> <p>2 Q. Unclear, what do you mean?</p> <p>3 A. Multiple statements in one event is</p> <p>4 accurate.</p> <p>5 Q. Okay.</p> <p>6 So, you're able to talk about how</p> <p>7 you handled it with Marjorie Phillips; but</p> <p>8 your event, whenever it was, that you were</p> <p>9 threatened to be killed, you're so traumatized</p> <p>10 that you can't even talk about it; is that</p> <p>11 right?</p> <p>12 (The witness is laughing.)</p> <p>13 MR. MELITO: Objection to form.</p> <p>14 Q. Is there something funny?</p> <p>15 A. Yeah, actually there is --</p> <p>16 MR. MELITO: Objection. You do</p> <p>17 not need to respond. We already put</p> <p>18 our objection to that line of</p> <p>19 questioning on the record.</p> <p>20 Q. So, can you explain how you were</p> <p>21 able to discern that all Ms. Barton needed</p> <p>22 was some counseling, training and a repeat</p> <p>23 warning that if she engaged in this kind of</p> <p>24 behavior again that she could be punished,</p> <p>25 disciplined or fired?</p>	<p style="text-align: right;">228</p> <p>1 C. GLASS</p> <p>2 answer? Are you saying that suspension with</p> <p>3 pay is disciplinary?</p> <p>4 A. No --</p> <p>5 MR. MELITO: Objection to form.</p> <p>6 A. I said it is part of the process.</p> <p>7 Q. Part of the process, okay.</p> <p>8 Let's talk about -- you're saying</p> <p>9 that what happened to Ms. Barton was</p> <p>10 disciplinary in nature; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 Well, we know that suspension</p> <p>14 without pay is not disciplinary, correct?</p> <p>15 MR. MELITO: Objection to form.</p> <p>16 A. If you read the collective</p> <p>17 bargaining agreement, you will --</p> <p>18 Q. I'm asking you a simple question --</p> <p>19 A. --it --</p> <p>20 Q. -- a very simple question. I'm not</p> <p>21 talking about the policy. I am asking you</p> <p>22 whether or not suspension with pay is</p> <p>23 disciplinary? You already answered it</p> <p>24 earlier today. You said it wasn't. Now, are</p> <p>25 you changing your answer?</p>

<p style="text-align: right;">229</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to</p> <p>3 form --</p> <p>4 A. It is not discipline in and of</p> <p>5 itself.</p> <p>6 Q. Got it.</p> <p>7 The other thing you said is she had</p> <p>8 to go to an mediation, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Is that disciplinary?</p> <p>11 A. Yes, I think it is.</p> <p>12 Q. Okay.</p> <p>13 A. For her. For her --</p> <p>14 Q. Okay.</p> <p>15 A. -- yes.</p> <p>16 Q. Well, in order for her to go to</p> <p>17 mediation, so would Ms. Phillips, correct?</p> <p>18 A. No, I misspoke.</p> <p>19 Q. Wait. Hold on. Excuse me. Excuse</p> <p>20 me. Excuse me.</p> <p>21 A. No, you put words in my mouth.</p> <p>22 Q. Okay. I said --</p> <p>23 A. -- mediation --</p> <p>24 Q. I said mediation -- what?</p> <p>25 A. Counseling is mediation; and</p>	<p style="text-align: right;">231</p> <p>1 C. GLASS</p> <p>2 did I put in your mouth? You just heard the</p> <p>3 questions and the answers. I just want to</p> <p>4 know, Ms. Glass or Dr. Glass, what words did</p> <p>5 I put in your mouth?</p> <p>6 MR. MELITO: Objection.</p> <p>7 A. Your line of questioning I took it</p> <p>8 to understand -- I was thinking about and I</p> <p>9 was responding with regard to counseling.</p> <p>10 When you finally got to your question about</p> <p>11 then both of them would have to go to</p> <p>12 mediation, I realized you were talking about</p> <p>13 mediation and not counseling and I asked to</p> <p>14 clarify.</p> <p>15 Q. I asked three questions about</p> <p>16 mediation in a row so you're saying that each</p> <p>17 of those questions I put in your mouth the</p> <p>18 word "counseling"? Is that -- I'm trying to</p> <p>19 figure out 'cause you said I put words in</p> <p>20 your mouth --</p> <p>21 A. No, you're trying to --</p> <p>22 Q. I wanted to hear my questions and</p> <p>23 your answers so I could see -- I shouldn't</p> <p>24 say "so I could see." So you could tell me</p> <p>25 what words I put in your mouth.</p>
<p style="text-align: right;">230</p> <p>1 C. GLASS</p> <p>2 counseling is the discipline and mediation</p> <p>3 was the intervention to get them both back to</p> <p>4 work.</p> <p>5 Q. I asked you about mediation. You</p> <p>6 said yes, it was. It was mediation for her;</p> <p>7 is that what you said?</p> <p>8 MR. MELITO: Objection. She's</p> <p>9 trying to clarify.</p> <p>10 Go ahead, Dr. Glass.</p> <p>11 A. I thought you were referring to</p> <p>12 counseling. You said, "mediation." I'm</p> <p>13 clarifying. I was -- my answer was in</p> <p>14 response to counseling.</p> <p>15 Q. Counseling --</p> <p>16 A. Counseling --</p> <p>17 MR. MELITO: May you --</p> <p>18 MR. SELLS: Can we have the</p> <p>19 previous answer repeated. Read back</p> <p>20 the last question and answer.</p> <p>21 (Whereupon, the requested</p> <p>22 portion of the transcript was read</p> <p>23 back.)</p> <p>24 Q. Go ahead. What were you saying,</p> <p>25 that I put words in your mouth? What words</p>	<p style="text-align: right;">232</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection and</p> <p>3 again, Dr. Glass is merely trying to</p> <p>4 clarify the statement.</p> <p>5 Continue Dr. Glass.</p> <p>6 Q. I want you to tell me what words I</p> <p>7 put in your mouth?</p> <p>8 MR. MELITO: Objection.</p> <p>9 Go ahead.</p> <p>10 A. You continued to ask questions that</p> <p>11 were -- this entire deposition have been all</p> <p>12 over the place, not clear to me and then when</p> <p>13 I realized what you're talking about, I asked</p> <p>14 to clarify. And then you continued to talk</p> <p>15 over me and tell me what I said and didn't</p> <p>16 say until we have to go back to the record.</p> <p>17 So, I am...</p> <p>18 Q. You still haven't told me what words</p> <p>19 I put in your mouth. I'm still waiting for</p> <p>20 that. So tell me which words --</p> <p>21 A. Let's go back -- let's go back to --</p> <p>22 Q. -- what words that I put in your</p> <p>23 mouth. Please help me out. Please help me</p> <p>24 out. Make me understand --</p> <p>25 A. You said that --</p>

<p style="text-align: right;">233</p> <p>1 C. GLASS</p> <p>2 Q. -- I asked --</p> <p>3 A. Are you gonna let me talk?</p> <p>4 Q. -- you said she had to go to</p> <p>5 mediation. I said, okay. Did you consider</p> <p>6 that disciplinary? You said, yes. You know,</p> <p>7 for her. And so I put those words in your</p> <p>8 mouth; is that what you're saying?</p> <p>9 MR. MELITO: Objection.</p> <p>10 Would you like me to step in</p> <p>11 here and try to move this along that</p> <p>12 it wasn't -- it didn't sound like it</p> <p>13 was put words in your mouth. It was</p> <p>14 more misunderstood the question; and</p> <p>15 now she is clarifying that when you</p> <p>16 were talking about mediation, she was</p> <p>17 thinking counseling. Can we just</p> <p>18 move on? Or do you want to go back</p> <p>19 and forth some more?</p> <p>20 MR. SELLS: I don't believe it.</p> <p>21 I don't believe her answer.</p> <p>22 Q. I think you absolutely knew that I</p> <p>23 was talking about mediation, but then when</p> <p>24 you realized --</p> <p>25 (The witness is laughing).</p>	<p style="text-align: right;">235</p> <p>1 C. GLASS</p> <p>2 received is unacceptable; and that's just to</p> <p>3 put on the record what you think it was,</p> <p>4 which you're wrong, is unacceptable.</p> <p>5 MR. MELITO: Okay. So I'm</p> <p>6 going to just step in here and ask</p> <p>7 Dr. Glass to clarify her testimony,</p> <p>8 what she -- we all know she has every</p> <p>9 right to do on the record in</p> <p>10 realtime. So we could move on.</p> <p>11 MR. SELLS: I'm going to move</p> <p>12 on. I'm going move on.</p> <p>13 Q. So did you know that Ms. Phillips</p> <p>14 also had to see a therapist, a counselor for</p> <p>15 this incident?</p> <p>16 A. I was aware that she took a medical</p> <p>17 leave.</p> <p>18 Q. So, when Ms. Phillips got counseling</p> <p>19 for this incident, was that disciplinary?</p> <p>20 MR. MELITO: Objection to form.</p> <p>21 And objection, outside the scope of</p> <p>22 the 30(b)(6).</p> <p>23 A. I did not control her counseling,</p> <p>24 her voluntary participation in whatever</p> <p>25 treatment she had.</p>
<p style="text-align: right;">234</p> <p>1 C. GLASS</p> <p>2 Q. -- that Ms. Phillips also had to go</p> <p>3 to mediation, then you said, ut-oh. I made a</p> <p>4 mistake, because now if I consider it</p> <p>5 disciplinary for Ms. Barton, then it also</p> <p>6 disciplinary for Ms. Phillips and that's</p> <p>7 what? Retaliation, right?</p> <p>8 MR. MELITO: Objection.</p> <p>9 Q. That's retaliation; isn't it</p> <p>10 Dr. Glass?</p> <p>11 MR. MELITO: Objection --</p> <p>12 Q. -- if you are punishing Ms. Phillips</p> <p>13 for mediation --</p> <p>14 MR. MELITO: Objection --</p> <p>15 Q. If you are punishing her with</p> <p>16 mediation because she made a complaint</p> <p>17 against Ms. Barton --</p> <p>18 A. That is not true --</p> <p>19 Q. -- then that would be considered</p> <p>20 retaliation.</p> <p>21 A. So -- so if you continue to put word</p> <p>22 in my mouth and you are telling me what I</p> <p>23 did, then stop, please. That is why this is</p> <p>24 just unacceptable, and for you to make</p> <p>25 assumptions about the threats that I have</p>	<p style="text-align: right;">236</p> <p>1 C. GLASS</p> <p>2 Q. Okay.</p> <p>3 So, what you are saying is that</p> <p>4 people who need to see counselors are somehow --</p> <p>5 it's a punitive -- that somehow it's a</p> <p>6 punitive measure, a disciplinary measure; is</p> <p>7 that what you are suggesting, that F.I.T.'s</p> <p>8 policy is --</p> <p>9 MR. MELITO: Objection.</p> <p>10 Objection to form.</p> <p>11 A. For Marilyn Barton, she was required</p> <p>12 by the college to see a counselor to evaluate</p> <p>13 her state of mind; and yes, I believe that</p> <p>14 that could be considered discipline because</p> <p>15 she was required by the college to do that in</p> <p>16 the context of this process.</p> <p>17 Q. Wow. So, if there is an employee at</p> <p>18 F.I.T. that has a drug problem and they seek</p> <p>19 counseling, or you require them to seek</p> <p>20 counseling, that is considered disciplinary?</p> <p>21 MR. MELITO: Objection to form.</p> <p>22 A. As a result of an incident on</p> <p>23 campus, yes.</p> <p>24 Q. And in what way is that</p> <p>25 disciplinary?</p>

<p style="text-align: right;">237</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form.</p> <p>3 Outside the scope of the 30(b)(6).</p> <p>4 A. Because it's not voluntary and it's</p> <p>5 a condition of continued employment or moving</p> <p>6 further down the disciplinary process.</p> <p>7 Q. Okay.</p> <p>8 So where is it in the collective</p> <p>9 bargaining agreement that it says requiring</p> <p>10 someone to get counseling is disciplinary;</p> <p>11 where is that at so I could find it?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. It doesn't say that in the</p> <p>14 collective bargaining agreement.</p> <p>15 Q. It doesn't. I thought the</p> <p>16 collective bargaining agreement dealt with</p> <p>17 disciplinary matters; is that right?</p> <p>18 A. It does to an extent.</p> <p>19 Q. Oh, so that is not the Bible then.</p> <p>20 So when you said earlier then that everything</p> <p>21 is under the collective bargaining agreement,</p> <p>22 that's only true up until you decide that</p> <p>23 it's not true; is it fair to say?</p> <p>24 MR. MELITO: Objection to form.</p> <p>25 A. Discipline falls under the</p>	<p style="text-align: right;">239</p> <p>1 C. GLASS</p> <p>2 exists.</p> <p>3 A. It doesn't.</p> <p>4 MR. MELITO: Objection to form.</p> <p>5 That is asked and answered, but she</p> <p>6 can give her response so we can go on</p> <p>7 break.</p> <p>8 I believe she just did. I'm</p> <p>9 sorry. I was speaking when she</p> <p>10 answered. Ms. Simpson, did you get</p> <p>11 that?</p> <p>12 A. It does not exist in the collective</p> <p>13 bargaining agreement.</p> <p>14 MR. MELITO: Thank you.</p> <p>15 MR. SELLS: We can take a</p> <p>16 break. How long do you need?</p> <p>17 MR. MELITO: How long would you</p> <p>18 like; five or 10 minutes?</p> <p>19 MR. SELLS: Come back at 6:10.</p> <p>20 MR. MELITO: Okay.</p> <p>21 (Whereupon, a brief recess was</p> <p>22 taken at 5:55 p.m.; after which, the</p> <p>23 proceeding continued at 6:11 p.m. as</p> <p>24 follows.)</p> <p>25 MR. MELITO: I want to note for</p>
<p style="text-align: right;">238</p> <p>1 C. GLASS</p> <p>2 collective bargaining agreement and the</p> <p>3 provisions of the agreement dictate the</p> <p>4 process.</p> <p>5 Q. What are you looking at right now?</p> <p>6 (The witness holds up a pen.)</p> <p>7 A. I'm looking at a pen. Wow, this is</p> <p>8 really -- this is harassment.</p> <p>9 MR. MELITO: Objection -- note</p> <p>10 objection. Just please, Dr. Glass,</p> <p>11 only answer the questions that</p> <p>12 Mr. Sells presents.</p> <p>13 THE WITNESS: I am requesting a</p> <p>14 break.</p> <p>15 Q. You have to answer the question</p> <p>16 first.</p> <p>17 MR. MELITO: She did. The last</p> <p>18 question on the record was, what are</p> <p>19 you looking at? She answered, a pen.</p> <p>20 MR. SELLS: But there is an</p> <p>21 open question about discipline in the</p> <p>22 collective bargaining agreement,</p> <p>23 where it says counseling is</p> <p>24 discipline. I'm asking where in the</p> <p>25 collective bargaining agreement that</p>	<p style="text-align: right;">240</p> <p>1 C. GLASS</p> <p>2 the record during the break Dr. Glass</p> <p>3 was emotionally distraught.</p> <p>4 MR. SELLS: Is she able to</p> <p>5 continue? Do you want to adjourn and</p> <p>6 resume at a later time?</p> <p>7 MR. MELITO: Bottom of the 9th</p> <p>8 here, let's just push through.</p> <p>9 Hopefully we can get through without</p> <p>10 anymore issues, just like we have</p> <p>11 been doing this whole time. So let's</p> <p>12 just push through.</p> <p>13 MR. SELLS: Okay.</p> <p>14 Q. Now, during the course of your</p> <p>15 office's investigation of a matter, and in</p> <p>16 particular the incident that arose on May</p> <p>17 16th, 2019, what role did Dean Davis play in</p> <p>18 that investigation, if any?</p> <p>19 A. The dean and Natacha Unelus, the HR</p> <p>20 generalist who was assigned to that business</p> <p>21 unit, worked together to request witness</p> <p>22 statements; and I believe Natacha then worked</p> <p>23 with Andre to continue the actual interviews</p> <p>24 with those people.</p> <p>25 Q. Did you ask Dean Davis to</p>

<p style="text-align: right;">241</p> <p>1 C. GLASS</p> <p>2 participate in this part of the</p> <p>3 investigation?</p> <p>4 A. I don't recall.</p> <p>5 Q. Well, let me ask you. Is it</p> <p>6 F.I.T.'s policy -- let me ask you this.</p> <p>7 Under F.I.T.'s policy, is it</p> <p>8 appropriate for someone who has been accused</p> <p>9 of discriminatory behavior towards a</p> <p>10 complaining employee to participate in an</p> <p>11 investigation concerning another complaint by</p> <p>12 the employee who has already made a complaint</p> <p>13 against the dean?</p> <p>14 MR. MELITO: Objection.</p> <p>15 A. No.</p> <p>16 Q. So why did you have her participate?</p> <p>17 Here you have Ms. Phillips who's made a</p> <p>18 complaint about Dean Davis saying that Dean</p> <p>19 Davis acted in a discriminatory way and that</p> <p>20 Dean Davis was never going to do anything to</p> <p>21 support the complaint, why would you have</p> <p>22 Dean Davis engaged in investigating conduct</p> <p>23 of Marilyn Barton towards Ms. Phillips; why</p> <p>24 would you do that?</p> <p>25 MR. MELITO: Objection.</p>	<p style="text-align: right;">243</p> <p>1 C. GLASS</p> <p>2 A. I think if you check the dates --</p> <p>3 MR. MELITO: Objection --</p> <p>4 A. That --</p> <p>5 MR. MELITO: Go ahead --</p> <p>6 A. -- that conversation was after the</p> <p>7 statements were requested.</p> <p>8 Q. That's not the point. The point is</p> <p>9 you selected Dean Davis who had an open -- a</p> <p>10 still open investigation involving her</p> <p>11 violations of the antidiscrimination policies</p> <p>12 by Ms. Phillips and you selected her to do</p> <p>13 this, to be involved in this second</p> <p>14 investigation. That's wholly inappropriate;</p> <p>15 isn't that right?</p> <p>16 MR. MELITO: Objection to form.</p> <p>17 A. She was not selected to be involved</p> <p>18 in the investigation. She volunteered to</p> <p>19 request statements from the witnesses that</p> <p>20 day because of the severity of the issue. At</p> <p>21 that the point, I did not know there was a</p> <p>22 claim, a prior claim.</p> <p>23 Q. So, let me get this. Dean Davis has</p> <p>24 an open investigation going on about her that</p> <p>25 you, as the head of employee relation, HR,</p>
<p style="text-align: right;">242</p> <p>1 C. GLASS</p> <p>2 A. I had just arrived at the college</p> <p>3 and this event was serious and I don't know</p> <p>4 that it was necessarily planned or anything</p> <p>5 else. But we wanted to get the witness</p> <p>6 statements so that we could understand what</p> <p>7 really happened, and I think that's the</p> <p>8 extent to which she was involved.</p> <p>9 Q. But Dean Davis had a bias, right?</p> <p>10 She had a bias against Ms. Phillips who made</p> <p>11 a complaint of discrimination against her; so</p> <p>12 why would you choose her, Dean Davis, to get</p> <p>13 statements in a matter that involved</p> <p>14 Ms. Phillips?</p> <p>15 MR. MELITO: Objection to form.</p> <p>16 A. I -- go ahead.</p> <p>17 MR. MELITO: I noted my</p> <p>18 objection to the form.</p> <p>19 A. In my four weeks time, I was not</p> <p>20 aware of that complaint.</p> <p>21 Q. I thought you spoke with Deliwe</p> <p>22 Kekana about whether or not Ms. Barton's</p> <p>23 threats to kill Ms. Phillips among other</p> <p>24 things that it was possible retaliation or</p> <p>25 not?</p>	<p style="text-align: right;">244</p> <p>1 C. GLASS</p> <p>2 employee relations and labor is not aware of --</p> <p>3 A. That's correct --</p> <p>4 Q. -- correct?</p> <p>5 MR. MELITO: Objection to form.</p> <p>6 Q. And so is it that you are saying</p> <p>7 that your lack of understanding the overall</p> <p>8 picture was what lead you to allow Dean Davis</p> <p>9 to get involved in securing statements from</p> <p>10 people that ultimately reported up to her; is</p> <p>11 that right?</p> <p>12 MR. MELITO: Objection to form.</p> <p>13 A. When I was made aware of the</p> <p>14 incident, I did not know there was a claim</p> <p>15 filed by Marjorie in 2018. We reacted</p> <p>16 immediately to the situation to get</p> <p>17 information around what was seen and what was</p> <p>18 heard.</p> <p>19 MR. SELLS: Can we pull up</p> <p>20 Exhibit 36.</p> <p>21 (Whereupon, Plaintiff's Exhibit</p> <p>22 36, two-page document Bates stamped</p> <p>23 F.I.T.237 to 238, was marked for</p> <p>24 identification as of this date.)</p> <p>25 (The image is shared on the</p>

<p style="text-align: right;">245</p> <p>1 C. GLASS</p> <p>2 computer screen.)</p> <p>3 MR. SELLS: This looks like a</p> <p>4 three-page document Bates stamped</p> <p>5 F.I.T. 236 to 238. If we could</p> <p>6 scroll just a little bit up so we</p> <p>7 could see the first e-mail. Stop.</p> <p>8 MR. MELITO: I only have two</p> <p>9 pages. I don't know if that's -- I</p> <p>10 have 237 to 238 on this exhibit.</p> <p>11 MR. SELLS: Maybe you're right.</p> <p>12 I correct myself. It is a two-page</p> <p>13 document Bates stamped 237 to 238.</p> <p>14 MR. MELITO: Thank you. Sorry</p> <p>15 for interrupting.</p> <p>16 Q. Here on May 20th, 2019 at 6:31</p> <p>17 Isolina Perez, she works for F.I.T., correct?</p> <p>18 MR. MELITO: Objection.</p> <p>19 A. Yes.</p> <p>20 Q. And she also works for the union,</p> <p>21 you said; is that correct?</p> <p>22 A. She is a union officer.</p> <p>23 Q. Okay.</p> <p>24 She writes as of Monday, May 20th,</p> <p>25 "Dear Eric and Cynthia." Do you know who she</p>	<p style="text-align: right;">247</p> <p>1 C. GLASS</p> <p>2 A. I'm Cynthia.</p> <p>3 Q. All right. Got it.</p> <p>4 So she writes, "I need to meet with</p> <p>5 you as soon as possible to discuss the</p> <p>6 serious incident that occurred last week in</p> <p>7 the Graduate Studies between Marilyn Barton</p> <p>8 and Marjorie Phillips. I reached out to Mary</p> <p>9 Davis, and she said she needed to find out</p> <p>10 the protocol before discussing the incident."</p> <p>11 Do you know what she is talking</p> <p>12 about there?</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. I do not.</p> <p>15 Q. Okay.</p> <p>16 She then says, "I also reached out</p> <p>17 to Natacha this morning asking her to reach</p> <p>18 out to Mary Davis."</p> <p>19 Now, why did Natacha want to speak</p> <p>20 to Mary Davis?</p> <p>21 MR. MELITO: Objection to form.</p> <p>22 A. Natacha was the HR generalist</p> <p>23 assigned to that business unit.</p> <p>24 Q. Got it. All right.</p> <p>25 "Since Marjorie doesn't feel safe in</p>
<p style="text-align: right;">246</p> <p>1 C. GLASS</p> <p>2 is referring to? Who is "Eric" and who is</p> <p>3 "Cynthia"?</p> <p>4 A. Eric Bowden was the interim vice</p> <p>5 president of HR prior to me coming to the</p> <p>6 college; Cynthia, is me.</p> <p>7 Q. Got it.</p> <p>8 So Eric, was he still at F.I.T. at</p> <p>9 the time?</p> <p>10 A. Yes, he moved to the Office of</p> <p>11 General Counsel.</p> <p>12 Q. Got it.</p> <p>13 But he was aware of Ms. Phillips'</p> <p>14 complaint, was he not; the one that she made</p> <p>15 back in March of 2018?</p> <p>16 MR. MELITO: Objection to form.</p> <p>17 A. I don't know.</p> <p>18 Q. Well, did you ask him?</p> <p>19 A. I didn't know; so why would I ask</p> <p>20 him?</p> <p>21 Q. I'm not asking you why or anything</p> <p>22 else. I am asking you, Did you ask him?</p> <p>23 A. No.</p> <p>24 Q. Okay.</p> <p>25 And who is "Cynthia"?</p>	<p style="text-align: right;">248</p> <p>1 C. GLASS</p> <p>2 the same office with Marilyn, I have reached</p> <p>3 out to Mario Cabrera to ask for security</p> <p>4 escort for Marjorie until further action is</p> <p>5 taken."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. So, as of May 20th, 2019 you knew</p> <p>9 Ms. Phillips did not feel safe being in the</p> <p>10 same space as Marilyn Barton, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Then you respond, "Hello, Isolina.</p> <p>13 We are currently investigating the incident</p> <p>14 and I expect to have a report from campus</p> <p>15 safety in the a.m."</p> <p>16 Now, what report were you referring</p> <p>17 to?</p> <p>18 A. The workplace violence policy states</p> <p>19 that campus safety does a report.</p> <p>20 Q. And do you know if they did one in</p> <p>21 this case?</p> <p>22 A. I believe they did take a report</p> <p>23 from Marjorie.</p> <p>24 Q. And you then write, "Until an</p> <p>25 assessment, there is no imminent danger or</p>

<p style="text-align: right;">249</p> <p>1 C. GLASS</p> <p>2 other safety concerns. She may elect to</p> <p>3 remain home until we discuss and determine</p> <p>4 what may be necessary to resolve this issue."</p> <p>5 When you talk about "until we</p> <p>6 discuss and determine what may be necessary</p> <p>7 resolve this issue," what were your choices</p> <p>8 at this point that you were contemplating?</p> <p>9 MR. MELITO: Objection.</p> <p>10 A. I think I was trying to understand</p> <p>11 what the process was at F.I.T.</p> <p>12 Q. So, you didn't really know what was</p> <p>13 going on; you didn't know what the next steps</p> <p>14 were; is it fair to say?</p> <p>15 MR. MELITO: Objection.</p> <p>16 A. Yes.</p> <p>17 Q. Okay.</p> <p>18 MR. SELLS: Can we scroll up.</p> <p>19 Q. So, then there's an e-mail from Mary</p> <p>20 Davis on the same thread where she says, "Hi,</p> <p>21 Sharon. Thanks very much."</p> <p>22 What's she talking about?</p> <p>23 MR. MELITO: Objection.</p> <p>24 A. I don't know.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">251</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection.</p> <p>3 A. I don't know.</p> <p>4 MR. SELLS: I'm calling for the</p> <p>5 production of the full e-mail thread.</p> <p>6 There is clearly e-mails missing from</p> <p>7 this.</p> <p>8 If we could just scroll up May</p> <p>9 20th, 2019, 8:46 that is 8:46 p.m.</p> <p>10 Q. You wrote, "Sorry. Forgot to CC you</p> <p>11 Mary."</p> <p>12 And so, is that when you informed</p> <p>13 Mary Davis about the communications you were</p> <p>14 having internally with your staff and with</p> <p>15 Marilyn Barton's union representative,</p> <p>16 Isolina?</p> <p>17 MR. MELITO: Objection to form.</p> <p>18 A. I believe, based on Isolina's</p> <p>19 e-mail, that she had reached out to Mary and</p> <p>20 there were multiple people involved; and</p> <p>21 therefore, I forgot to send Mary a courtesy</p> <p>22 copy so that she would understand be in the</p> <p>23 loop as to what was happening.</p> <p>24 Q. Okay.</p> <p>25 Is it your understanding that</p>
<p style="text-align: right;">250</p> <p>1 C. GLASS</p> <p>2 But then she writes, "FYI, I left a</p> <p>3 voicemail with Isolina this afternoon around</p> <p>4 1:00 p.m. letting her know that I was</p> <p>5 gathering information and would like to wait</p> <p>6 until that process was complete before</p> <p>7 meeting."</p> <p>8 What was she talking about?</p> <p>9 MR. MELITO: Objection.</p> <p>10 A. With regard to the workplace</p> <p>11 violence incident, she had asked, I guess,</p> <p>12 anyone in the department who had observed the</p> <p>13 incident and could provide information.</p> <p>14 Q. So, was Dean Davis thanking you very</p> <p>15 much for allowing her to do her own</p> <p>16 investigation before she was required to meet</p> <p>17 with HR?</p> <p>18 MR. MELITO: Objection to form.</p> <p>19 A. I don't believe that is what that</p> <p>20 means.</p> <p>21 Q. Well, why she thanking you?</p> <p>22 MR. MELITO: Objection to form.</p> <p>23 A. I don't know.</p> <p>24 Q. And what was your response to this</p> <p>25 e-mail?</p>	<p style="text-align: right;">252</p> <p>1 C. GLASS</p> <p>2 Isolina Perez represented Ms. Barton in this</p> <p>3 investigation?</p> <p>4 A. Or Marilyn, either or both. I</p> <p>5 didn't know that the point.</p> <p>6 Q. I'm sorry? Who?</p> <p>7 A. Marilyn Barton and Marjorie Phillips</p> <p>8 are both union employees that fall under the</p> <p>9 representation of Isolina Perez; and whether</p> <p>10 that was designated to others -- I think at</p> <p>11 this time there wasn't a designation besides</p> <p>12 Isolina was handling it from their</p> <p>13 perspective.</p> <p>14 Q. I see. All right.</p> <p>15 But you understood, certainly by</p> <p>16 this point, that Ms. Phillips had made a</p> <p>17 complaint against Ms. Barton for</p> <p>18 discrimination, right?</p> <p>19 MR. MELITO: Objection to form.</p> <p>20 A. I don't remember at what point. I</p> <p>21 think I talked to Deliwe on the 23rd because</p> <p>22 I was clearly aware at that point and asked</p> <p>23 her if it was retaliation or if that was</p> <p>24 going to be a concern. So I don't know on</p> <p>25 May 20th.</p>

<p style="text-align: right;">253</p> <p>1 C. GLASS</p> <p>2 Q. Okay.</p> <p>3 Well as you look at it now, do you</p> <p>4 think it's wholly inappropriate that Dean</p> <p>5 Davis was assigned to do an investigation</p> <p>6 into this matter where Ms. Phillips had an</p> <p>7 open discrimination complaint against her and</p> <p>8 Ms. Barton?</p> <p>9 MR. MELITO: Objection to form.</p> <p>10 Objection, outside the scope of the</p> <p>11 30(b) (6).</p> <p>12 A. Dean Davis was not assigned. Dean</p> <p>13 Davis was part of the process of information</p> <p>14 gathering as the dean and leader of the</p> <p>15 department in which this incident happened.</p> <p>16 MR. SELLS: Can we just go up</p> <p>17 to the previous --</p> <p>18 Q. I'm going to read this again.</p> <p>19 "FYI, I left --" this is from Dean</p> <p>20 Davis to you at 9:53 p.m. on Monday May 20th.</p> <p>21 "FYI, I left a voicemail with Isolina this</p> <p>22 afternoon around 1:00 p.m. letting her know</p> <p>23 that I was gathering information and would</p> <p>24 like to wait until that process was complete</p> <p>25 before meeting."</p>	<p style="text-align: right;">255</p> <p>1 C. GLASS</p> <p>2 from HR that spoke to Marilyn Barton? What</p> <p>3 was his name? The one who took the notes?</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. Andre Nunez.</p> <p>6 Q. Andre, okay.</p> <p>7 They could have easily spoken to the</p> <p>8 witness, right?</p> <p>9 MR. MELITO: Objection to form.</p> <p>10 A. We are not located in the same</p> <p>11 building on campus, and it would not have</p> <p>12 been as efficient.</p> <p>13 Q. Let me just ask, is it F.I.T.'s</p> <p>14 policy that if it is a serious matter that</p> <p>15 needs to be investigated immediately that the</p> <p>16 dean of the college can go ahead and assist</p> <p>17 or that anyone that is nearby that is in a</p> <p>18 supervisory capacity could take statements</p> <p>19 that are to be used in an HR investigation;</p> <p>20 is that F.I.T.'s policy?</p> <p>21 MR. MELITO: Objection.</p> <p>22 A. That was reasonable in this</p> <p>23 situation. I don't know what --</p> <p>24 Q. Okay. Okay --</p> <p>25 A. -- yeah.</p>
<p style="text-align: right;">254</p> <p>1 C. GLASS</p> <p>2 Now when she writes that that "I was</p> <p>3 gathering information," did she tell you how</p> <p>4 she was going to gather this information?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. Yeah, I believe the understanding</p> <p>7 was that she was going to ask those people in</p> <p>8 the department who observed the incident to</p> <p>9 put it in writing as soon as possible so that</p> <p>10 we could ensure it was documented.</p> <p>11 Q. Okay.</p> <p>12 Isn't that HR's function if they're</p> <p>13 going to do an investigation; isn't it their</p> <p>14 function to get statements from witnesses and</p> <p>15 not Mary Davis' function?</p> <p>16 MR. MELITO: Objection.</p> <p>17 A. Typically, yes. In this situation,</p> <p>18 because it was so serious, I think we were</p> <p>19 all hands on deck to ensure the safety of the</p> <p>20 employees.</p> <p>21 Q. Really? So Natacha was part of this</p> <p>22 chain, wasn't she?</p> <p>23 A. Yes.</p> <p>24 Q. And Natacha was the one along with</p> <p>25 the other person -- who was the other person</p>	<p style="text-align: right;">256</p> <p>1 C. GLASS</p> <p>2 Q. So, let's take a look at the -- oh,</p> <p>3 the fashion show. That was certainly an</p> <p>4 emergency. You had the president of the</p> <p>5 college making statements about it. Did you</p> <p>6 assign Dean Davis to go ahead and do the</p> <p>7 information gathering for the fashion show</p> <p>8 complaint?</p> <p>9 MR. MELITO: Objection to form.</p> <p>10 Outside the scope of 30(b) (6).</p> <p>11 A. Legal counsel facilitated --</p> <p>12 MR. MELITO: Objection. To the</p> <p>13 extent that -- just --</p> <p>14 Q. Okay. Well --</p> <p>15 MR. MELITO: -- attorney/client</p> <p>16 privilege --</p> <p>17 Q. -- are you sure about that; because</p> <p>18 I already read to you what was marked as</p> <p>19 Exhibit B from Mary Davis' --</p> <p>20 MR. SELLS: Let me just get</p> <p>21 that exhibit. Sorry. Let's pull up</p> <p>22 Exhibit C. Hang on. Let's pull up</p> <p>23 Exhibit 64, please.</p> <p>24 (Whereupon, Plaintiff's Exhibit</p> <p>25 64, attachment to affirmation in</p>

<p style="text-align: right;">257</p> <p>1 C. GLASS</p> <p>2 support of motion to dismiss, was</p> <p>3 marked for identification as of this</p> <p>4 date.)</p> <p>5 (The image is shared on the</p> <p>6 computer screen.)</p> <p>7 MR. SELLS: For the record,</p> <p>8 Exhibit 64 is something that has been</p> <p>9 filed with the New York County clerk</p> <p>10 through ECF and it is an attachment</p> <p>11 to an affirmation in support of a</p> <p>12 motion to dismiss. And this is</p> <p>13 meeting notes from Mary Davis meeting</p> <p>14 with Kyle Farmer and the students.</p> <p>15 Can we just flip through this.</p> <p>16 Q. This is a memo to the file dated</p> <p>17 February 18th of 2020, "Meeting with MFA</p> <p>18 fashion design second year cohort, present</p> <p>19 Kyle Farmer and students in the second year</p> <p>20 cohort."</p> <p>21 And this is a note from Mary Davis</p> <p>22 explaining how she gathered information</p> <p>23 concerning the complaint of these students,</p> <p>24 right?</p> <p>25 MR. MELITO: Objection.</p>	<p style="text-align: right;">259</p> <p>1 C. GLASS</p> <p>2 A. Roll up, please.</p> <p>3 Q. Okay.</p> <p>4 Now, you see -- I will just focus on</p> <p>5 one thing. "Students said they were made to</p> <p>6 feel that their work was not valued and said</p> <p>7 this feeling became especially sharp during</p> <p>8 critiques that are part of the program.</p> <p>9 Again, I stated that these behaviors</p> <p>10 are not to be tolerated and should be</p> <p>11 reported directly to me."</p> <p>12 Now, is that accurate that</p> <p>13 complaints of discrimination or retaliation</p> <p>14 had to be reported to the dean or could it</p> <p>15 be --</p> <p>16 MR. DRANOFF: Object to the</p> <p>17 form --</p> <p>18 Q. -- reported to other people?</p> <p>19 MR. DRANOFF: Object to the</p> <p>20 form.</p> <p>21 MR. MELITO: Objection to form</p> <p>22 as well. And again, this is outside</p> <p>23 the scope of the 30(b) (6) .</p> <p>24 A. It could be reported to others.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">258</p> <p>1 C. GLASS</p> <p>2 Q. You can read through it if you need</p> <p>3 to.</p> <p>4 MR. MELITO: Objection. Lacks</p> <p>5 foundation.</p> <p>6 Q. Are you reading through it?</p> <p>7 A. I am.</p> <p>8 Q. Okay.</p> <p>9 Do you need the screen to be moved</p> <p>10 so you could read the rest of it?</p> <p>11 A. Please.</p> <p>12 MR. SELLS: We can scroll up.</p> <p>13 Q. Now, I don't need you to know</p> <p>14 everything; but you see here she is meeting</p> <p>15 with students who made complaints of</p> <p>16 discrimination related to the fashion show;</p> <p>17 is it fair to say?</p> <p>18 MR. MELITO: Objection to form,</p> <p>19 lacks --</p> <p>20 Q. I mean, if you need to keep reading;</p> <p>21 that is fine. But I'm just saying, Is that</p> <p>22 what this is?</p> <p>23 MR. MELITO: Objection.</p> <p>24 Q. Tell me when you need to have the</p> <p>25 screen moved up.</p>	<p style="text-align: right;">260</p> <p>1 C. GLASS</p> <p>2 Keep reading and tell me when you</p> <p>3 need to scroll up.</p> <p>4 A. Scroll up, please.</p> <p>5 Q. Tell me when you need to scroll up</p> <p>6 again.</p> <p>7 A. Scroll up.</p> <p>8 Q. Tell me when you need to scroll up.</p> <p>9 A. Scroll up.</p> <p>10 Q. All right. That's it. Okay.</p> <p>11 MR. SELLS: We could take this</p> <p>12 document down.</p> <p>13 Q. Now, with the investigation into</p> <p>14 Ms. Phillips' complaint of May 16th, 2019 you</p> <p>15 allowed Dean Davis to gather that</p> <p>16 information, right?</p> <p>17 MR. DRANOFF: Object to the</p> <p>18 form.</p> <p>19 MR. MELITO: Objection.</p> <p>20 A. I did not know Dean Davis was</p> <p>21 meeting with the students until after.</p> <p>22 Q. No, I'm not asking about this -- I'm</p> <p>23 not asking about meeting with the students.</p> <p>24 I'm asking about, With Ms. Phillips'</p> <p>25 complaint of May 16th, 2019 you allowed Dean</p>

<p style="text-align: right;">261</p> <p>1 C. GLASS</p> <p>2 Davis the time to gather and the permission</p> <p>3 to gather information concerning her</p> <p>4 complaint, correct?</p> <p>5 MR. MELITO: Objection to form.</p> <p>6 MR. DRANOFF: Object to the</p> <p>7 form.</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 But when Ms. Davis did the same</p> <p>11 exact thing with regard to the fashion show</p> <p>12 complaints, where she took it upon herself to</p> <p>13 immediately investigate because it was such</p> <p>14 an uproarious thing, that was used as part of</p> <p>15 the reason to terminate her that she did not</p> <p>16 go through the Affirmative Action Office and</p> <p>17 instead tried to gather information on her</p> <p>18 own, right?</p> <p>19 MR. DRANOFF: Object to the</p> <p>20 form.</p> <p>21 MR. MELITO: Objection to form,</p> <p>22 and outside the scope of the</p> <p>23 30(b) (6).</p> <p>24 A. I think the situations were</p> <p>25 different; yes, she did collect information</p>	<p style="text-align: right;">263</p> <p>1 C. GLASS</p> <p>2 Dean Davis's office; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. And the people who she was getting</p> <p>5 statements from were under her supervision</p> <p>6 and direction, right?</p> <p>7 MR. MELITO: Objection.</p> <p>8 A. Yes.</p> <p>9 Q. Now, do you know the names of people</p> <p>10 that she got statements from?</p> <p>11 A. Well, you showed one, Umlita Alsop.</p> <p>12 Q. What makes you think that that came</p> <p>13 from Dean Davis? What makes you think she is</p> <p>14 the one that got Umlita statement?</p> <p>15 A. I don't for sure.</p> <p>16 Q. You don't. Okay.</p> <p>17 Well, who else do you think that she</p> <p>18 got a statement from?</p> <p>19 MR. MELITO: Objection.</p> <p>20 A. Actually, I don't know who she</p> <p>21 actually got the statements from. I know</p> <p>22 that she requested them. I don't know if</p> <p>23 they ended upcoming to Natacha or to Mary</p> <p>24 directly.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">262</p> <p>1 C. GLASS</p> <p>2 in both of them. The workplace violence</p> <p>3 situation, I don't know that was</p> <p>4 inappropriate to have the senior executive</p> <p>5 involved in understanding quickly what had</p> <p>6 happened.</p> <p>7 Q. Well, Dean Davis had a complaint --</p> <p>8 an open investigation into Ms. Phillips'</p> <p>9 complaint of discrimination and</p> <p>10 discriminatory conduct on the part of Dean</p> <p>11 Davis, did she not?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. I don't believe she was involved</p> <p>14 beyond the collection of the statements,</p> <p>15 which were an initial step to ensure the</p> <p>16 safety of employees.</p> <p>17 Q. Well, let me understand this. Who</p> <p>18 did she get statements from?</p> <p>19 A. I think she requested them from the</p> <p>20 employees who were in that vicinity when it</p> <p>21 happened.</p> <p>22 Q. Okay.</p> <p>23 Do you know what vicinity that was?</p> <p>24 A. The Graduate School office.</p> <p>25 Q. That is where her office is, where</p>	<p style="text-align: right;">264</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: If we could pull up</p> <p>3 Exhibit 39.</p> <p>4 (Whereupon, Plaintiff's Exhibit</p> <p>5 39, Anton Baptiste's statement, was</p> <p>6 marked for identification as of this</p> <p>7 date.)</p> <p>8 MR. SELLS: If we could just</p> <p>9 scroll down to the beginning.</p> <p>10 Q. This is Anton Baptiste's statement;</p> <p>11 is that right?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. Yes.</p> <p>14 Q. How did Dean Davis get this</p> <p>15 statement; do you know?</p> <p>16 A. I do not --</p> <p>17 MR. MELITO: Objection.</p> <p>18 Q. And from looking at this statement,</p> <p>19 can you discern how she got it?</p> <p>20 MR. MELITO: Objection.</p> <p>21 A. I don't know.</p> <p>22 Q. Do you know if Anton Baptiste</p> <p>23 actually even wrote this statement?</p> <p>24 A. I do not.</p> <p>25 Q. All right.</p>

<p style="text-align: right;">265</p> <p>1 C. GLASS</p> <p>2 So let's scroll up. All you have is</p> <p>3 this from Mary Davis to you as well as Natacha</p> <p>4 Unelus, "FYI," right?</p> <p>5 MR. MELITO: Objection.</p> <p>6 Q. This statement was forwarded to you</p> <p>7 from Mary Davis, correct?</p> <p>8 A. To Natacha, copying me and Tasha is</p> <p>9 the primary.</p> <p>10 Q. So, HR had nothing to do with this</p> <p>11 statement by Anton Baptiste other than</p> <p>12 receiving it from Mary Davis, correct?</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. Correct.</p> <p>15 Q. So you don't know how Mary Davis got</p> <p>16 this statement from Anton Baptiste, right?</p> <p>17 MR. MELITO: Objection.</p> <p>18 A. Correct.</p> <p>19 Q. You don't know what it was that Mary</p> <p>20 Davis may have said to Anton Baptiste about</p> <p>21 this statement, right?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. Correct.</p> <p>24 Q. And you didn't even follow up with</p> <p>25 Anton Baptiste after you received this</p>	<p style="text-align: right;">267</p> <p>1 C. GLASS</p> <p>2 testified to?</p> <p>3 MR. MELITO: Objection to form.</p> <p>4 MR. DRANOFF: Object to the</p> <p>5 form.</p> <p>6 A. To request the statements so that</p> <p>7 the witnesses could prepare their statements</p> <p>8 as soon as possible.</p> <p>9 Q. Got it.</p> <p>10 So and so here we are now, Mary</p> <p>11 Davis delivering to you and Natacha Unelus a</p> <p>12 statement from Henry Wallace on Wednesday,</p> <p>13 May 22nd, 2019 at 8:53 p.m. Two full days,</p> <p>14 correct?</p> <p>15 MR. MELITO: Objection.</p> <p>16 A. It appears that Henry sent it to her</p> <p>17 at 5:03 p.m. that same day.</p> <p>18 Q. That's the way it appears. Do you</p> <p>19 know if that was, in fact, accurate?</p> <p>20 A. That's what the e-mail says.</p> <p>21 Q. Got it.</p> <p>22 So why did it take three hours for</p> <p>23 it to be forwarded to you; did your find out?</p> <p>24 MR. MELITO: Objection.</p> <p>25 A. (No Response.)</p>
<p style="text-align: right;">266</p> <p>1 C. GLASS</p> <p>2 statement for any clarifying information or</p> <p>3 anything else, did you?</p> <p>4 MR. MELITO: Objection.</p> <p>5 A. I did not, but Natacha was the</p> <p>6 primary investigator.</p> <p>7 Q. Well, did she speak to Anton</p> <p>8 Baptiste after this statement?</p> <p>9 A. I do not know that.</p> <p>10 Q. Okay.</p> <p>11 MR. SELLS: We can take down</p> <p>12 that document.</p> <p>13 Could we put up exhibit 40.</p> <p>14 (Whereupon, Plaintiff's Exhibit</p> <p>15 40, statement from Henry Wallace, was</p> <p>16 marked for identification as of this</p> <p>17 date.)</p> <p>18 (The image is shared on the</p> <p>19 computer screen.)</p> <p>20 Q. Now, you indicated that there was</p> <p>21 such a rush, that this was such a serious</p> <p>22 matter that it needed to be investigated</p> <p>23 immediately and so it was fully appropriate</p> <p>24 for Dean Davis to take the lead in securing</p> <p>25 witness statements. Is that what you</p>	<p style="text-align: right;">268</p> <p>1 C. GLASS</p> <p>2 Q. I'm asking, Did you find out?</p> <p>3 A. I did not ask.</p> <p>4 Q. Why not?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. I work a lot of hours. I don't know</p> <p>7 that that three hour difference to me was</p> <p>8 significant.</p> <p>9 Q. Okay.</p> <p>10 MR. SELLS: We could scroll</p> <p>11 down.</p> <p>12 Q. Do you know if Mr. Wallace's -- if</p> <p>13 this is Mr. Wallace's statement?</p> <p>14 A. According to the e-mail, it is.</p> <p>15 Q. All right.</p> <p>16 Now, what is the difference between</p> <p>17 Mr. Baptiste's statement and Mr. Wallace's</p> <p>18 statement?</p> <p>19 MR. MELITO: Objection.</p> <p>20 A. You could bring the other one up and</p> <p>21 I can read them both again.</p> <p>22 Q. Okay.</p> <p>23 Why don't you read this one first.</p> <p>24 Tell me when you are finished.</p> <p>25 (Whereupon, Witness is reading the</p>

<p style="text-align: right;">269</p> <p>1 C. GLASS</p> <p>2 exhibit.)</p> <p>3 Q. Are you finished?</p> <p>4 A. No.</p> <p>5 Q. Where are you?</p> <p>6 A. I'm almost finished.</p> <p>7 Q. Okay.</p> <p>8 If it's easier, I can read it for</p> <p>9 you.</p> <p>10 A. I'm capable.</p> <p>11 Q. Can we put up the next one?</p> <p>12 A. Yes.</p> <p>13 Q. You just read Mr. Wallace's</p> <p>14 statement. Let's take a look at Exhibit 39.</p> <p>15 MR. SELLS: If we could just</p> <p>16 scroll up to the statement. There it</p> <p>17 is.</p> <p>18 Q. So, now I want you to read Mr. Baptiste's</p> <p>19 statement and tell me what's different.</p> <p>20 MR. MELITO: I'm going to</p> <p>21 object; and object, this is outside</p> <p>22 the scope of the 30(b) (6).</p> <p>23 Q. What's different so far?</p> <p>24 MR. MELITO: Objection.</p> <p>25 A. They both seem to have observed the</p>	<p style="text-align: right;">271</p> <p>1 C. GLASS</p> <p>2 Affirmative Action, and that it was still an</p> <p>3 ongoing investigation and that she lost her</p> <p>4 temper, right?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. Yes.</p> <p>7 Q. But Dean Davis handed you two</p> <p>8 identical statements from two people that</p> <p>9 worked for her that do not even address</p> <p>10 Marilyn Barton's statement about the open</p> <p>11 Affirmative Action investigation, right?</p> <p>12 MR. MELITO: Objection to form.</p> <p>13 Again, outside the scope of the</p> <p>14 30(b) (6).</p> <p>15 A. No.</p> <p>16 Q. So again, I ask you, Did Dean Davis</p> <p>17 write those statements for both of them to</p> <p>18 sign which are identical or did she ask them,</p> <p>19 Oh, can you just give me a statement and they</p> <p>20 happened to come up with the exact same</p> <p>21 language in both statements two days apart?</p> <p>22 Explain that to me.</p> <p>23 MR. MELITO: Objection to form.</p> <p>24 A. I can't explain that to you.</p> <p>25 Q. Well, does that seem a little</p>
<p style="text-align: right;">270</p> <p>1 C. GLASS</p> <p>2 same thing.</p> <p>3 Q. Whoa. And they are two days apart</p> <p>4 when they were written and they are exactly</p> <p>5 the same; is that right?</p> <p>6 MR. MELITO: Objection. They</p> <p>7 are not exactly the same.</p> <p>8 Q. Well, both of them both indicate</p> <p>9 that "Marilyn entered the office and said</p> <p>10 that the cause of the altercation was due to</p> <p>11 Marilyn issuing graduation regalia to a</p> <p>12 student who had not gone through the steps to</p> <p>13 purchase the materials online by the</p> <p>14 deadline." Right? Is that what it --</p> <p>15 MR. MELITO: Objection.</p> <p>16 Q. Is that what they both say?</p> <p>17 MR. MELITO: Objection.</p> <p>18 A. Yes.</p> <p>19 MR. SELLS: Okay. We can take</p> <p>20 down the document.</p> <p>21 Q. Now, you saw Marilyn Barton's own</p> <p>22 statement about the incident, and you saw</p> <p>23 when Marilyn Barton said that this was the</p> <p>24 last straw. That Ms. Phillips had made a</p> <p>25 complaint against her that had gone up to</p>	<p style="text-align: right;">272</p> <p>1 C. GLASS</p> <p>2 strange that if --</p> <p>3 MR. MELITO: Objection.</p> <p>4 Q. -- Dean Davis isn't trying to pull</p> <p>5 the puppet strings, that when two statements --</p> <p>6 MR. MELITO: Objection.</p> <p>7 Q. -- that she would get from two</p> <p>8 different people would have the same exact</p> <p>9 language, the same exact words just signed by</p> <p>10 a different person; does that seem a little</p> <p>11 strange to you and unusual?</p> <p>12 A. Yeah, the strange --</p> <p>13 MR. MELITO: Objection to form.</p> <p>14 A. The strange part is that there's --</p> <p>15 more likely than Dean Davis intervening is</p> <p>16 one of the employees have a language barrier</p> <p>17 and perhaps they wrote it together; that</p> <p>18 would be my assumption.</p> <p>19 Q. And why would that be your</p> <p>20 assumption?</p> <p>21 A. Because I believe that Natacha said</p> <p>22 that one of the employees is not a native</p> <p>23 English speaker.</p> <p>24 Q. So that means that they cannot write</p> <p>25 English; is that your understanding?</p>

<p style="text-align: right;">273</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Objection to form.</p> <p>3 Again, outside the scope of the</p> <p>4 30(b)(6).</p> <p>5 A. It means --</p> <p>6 MR. MELITO: Go ahead.</p> <p>7 A. It means that they may not have been</p> <p>8 comfortable putting in writing their</p> <p>9 statement and had assistance. I don't know.</p> <p>10 Q. Yes, but that's the problem, right?</p> <p>11 Because you had Dean Davis gather the</p> <p>12 information and so -- is that right, you had</p> <p>13 Dean Davis gather the information, correct?</p> <p>14 MR. MELITO: Objection to form.</p> <p>15 A. Dean Davis gathered it the</p> <p>16 information -- actually, Dean Davis asked for</p> <p>17 the statements.</p> <p>18 Q. How do you know?</p> <p>19 MR. MELITO: Objection.</p> <p>20 A. That's my understanding.</p> <p>21 Q. From who?</p> <p>22 A. Dean Davis.</p> <p>23 Q. When did you speak the her about it?</p> <p>24 A. Clearly from the e-mails that is</p> <p>25 what was happening, is she was soliciting the</p>	<p style="text-align: right;">275</p> <p>1 C. GLASS</p> <p>2 Mary Davis asked Anton Baptiste simply to</p> <p>3 write a statement?</p> <p>4 MR. MELITO: Objection to form.</p> <p>5 Objection, outside the scope of</p> <p>6 30(b)(6) and lacks foundation.</p> <p>7 A. The e-mail thread indicates that</p> <p>8 Mary received a statement from Anton, who</p> <p>9 then forwarded it to Natacha and copied me.</p> <p>10 Q. Right. But I am asking you where</p> <p>11 the instructions were; what instructions did</p> <p>12 Dean Davis give to Anton Baptiste about what</p> <p>13 was --</p> <p>14 MR. MELITO: Objection --</p> <p>15 Q. -- supposed to be in this statement</p> <p>16 or how it is supposed to be written?</p> <p>17 MR. MELITO: Objection to form.</p> <p>18 A. I don't know.</p> <p>19 Q. And did you tell or did you find out</p> <p>20 from Dean Davis whether she asked Anton</p> <p>21 Baptiste to keep this confidential and not</p> <p>22 talk to any other employee about what his</p> <p>23 observations were --</p> <p>24 MR. MELITO: Objection --</p> <p>25 Q. -- so that whatever he observed</p>
<p style="text-align: right;">274</p> <p>1 C. GLASS</p> <p>2 statements from the witness.</p> <p>3 Q. Which e-mail are you referring to;</p> <p>4 something that we have seen or something that</p> <p>5 we haven't seen yet?</p> <p>6 A. The one that you had put up to</p> <p>7 Natacha copying me with --</p> <p>8 Q. She is gonna gather information?</p> <p>9 A. -- that Anton's statement was</p> <p>10 attached to. She forward it had statement.</p> <p>11 MR. SELLS: Can we pull that</p> <p>12 backup, Exhibit 39.</p> <p>13 (The image is shared on the</p> <p>14 computer screen.)</p> <p>15 Q. Now, we are at Exhibit 39. This is</p> <p>16 part of the statement. If we could just</p> <p>17 scroll down. This is F.I.T. 151. It is a</p> <p>18 one-page document.</p> <p>19 Now, where in this statement does it</p> <p>20 say from Dean Davis to Anton Baptiste, please</p> <p>21 provide me with a statement? Where does it</p> <p>22 say on here what Dean Davis' instructions</p> <p>23 were to Mr. Baptiste about this statement?</p> <p>24 Just show it to me so that I could be clear</p> <p>25 as to where you're getting your opinion that</p>	<p style="text-align: right;">276</p> <p>1 C. GLASS</p> <p>2 couldn't be used by someone else, to just</p> <p>3 simply take what his observations were; do</p> <p>4 you know if she gave that instruction?</p> <p>5 A. I do not.</p> <p>6 Q. Well if the HR specialist were to</p> <p>7 take the statement, isn't that one of the</p> <p>8 things they're supposed to do? The HR</p> <p>9 specialist is supposed to say, keep this</p> <p>10 confidential and do not discuss it with</p> <p>11 anyone; isn't that one of the standard</p> <p>12 instructions?</p> <p>13 A. Yes.</p> <p>14 MR. MELITO: Objection to form.</p> <p>15 Q. Now, did you tell Dean Davis that</p> <p>16 she was supposed to use that protocol that HR</p> <p>17 uses in every investigation that when you</p> <p>18 collect these statements that you must tell</p> <p>19 the witness to keep it confidential and not</p> <p>20 share whatever their observations were with</p> <p>21 anyone else?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. These statements were an initial --</p> <p>24 Q. I didn't ask you that. Please,</p> <p>25 answer my question.</p>

<p style="text-align: right;">277</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: Please read back my</p> <p>3 question, Lesley.</p> <p>4 (Whereupon, the requested</p> <p>5 portion of the transcript was read</p> <p>6 back.)</p> <p>7 A. No.</p> <p>8 Q. Okay.</p> <p>9 Why didn't you tell her that?</p> <p>10 MR. MELITO: Objection. It's</p> <p>11 outside the scope.</p> <p>12 A. Natacha was going to be conducting</p> <p>13 the formal -- the investigation and this was</p> <p>14 an initial collection of facts. I don't know</p> <p>15 what -- to what extent that these were even</p> <p>16 used in Natacha's investigation.</p> <p>17 Q. So basically, what you allowed Dean</p> <p>18 Davis to do was to lock-in at least two</p> <p>19 witnesses to the version that she wanted them</p> <p>20 to tell so that when HR, whenever Natacha did</p> <p>21 her investigation, if they said anything</p> <p>22 different then they could get in trouble for</p> <p>23 possibly lying in an investigation, right?</p> <p>24 MR. MELITO: Objection to form.</p> <p>25 A. So what is the question?</p>	<p style="text-align: right;">279</p> <p>1 C. GLASS</p> <p>2 Q. Okay.</p> <p>3 (Whereupon, Plaintiff's Exhibit</p> <p>4 42, one-page document Bates stamped</p> <p>5 145, was marked for identification as</p> <p>6 of this date.)</p> <p>7 (The image is shared on the</p> <p>8 computer screen.)</p> <p>9 Q. Is this the letter?</p> <p>10 A. Can you scroll down?</p> <p>11 (Whereupon, Witness is reading</p> <p>12 exhibit.)</p> <p>13 A. Yes, I drafted this letter for</p> <p>14 Dr. Brown's signature.</p> <p>15 MR. SELLS: Scrolling backup.</p> <p>16 Just for the record, Plaintiff's</p> <p>17 Exhibit Number 42 is a one-page</p> <p>18 document Bates stamped 145.</p> <p>19 Go to the first paragraph of</p> <p>20 the letter, please.</p> <p>21 Q. In the letter President Brown says</p> <p>22 that the specific disciplinary charges may be</p> <p>23 following; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">278</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: Repeat my question,</p> <p>3 please.</p> <p>4 (Whereupon, the requested</p> <p>5 portion of the transcript was read</p> <p>6 back.)</p> <p>7 A. So there are two parts to that</p> <p>8 question. The first part is, did I allow</p> <p>9 Mary Davis to lock them into their</p> <p>10 statements? No, I did not.</p> <p>11 The second part of whether they</p> <p>12 would get in trouble in an investigation for</p> <p>13 changing their statements, that's not</p> <p>14 accurate either.</p> <p>15 We would want to understand why this</p> <p>16 happened if it had to do with -- Natacha may</p> <p>17 have asked the question whether it was due to</p> <p>18 language issues or, you know, whatever was</p> <p>19 behind the statement.</p> <p>20 MR. SELLS: We can take down</p> <p>21 the document.</p> <p>22 Can we pull up Exhibit 42.</p> <p>23 Q. You wrote a letter to Ms. Barton</p> <p>24 suspending her with pay, did you not?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">280</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: We can take down</p> <p>3 the document.</p> <p>4 Q. So, the suspension took place on</p> <p>5 March 24th, 2019?</p> <p>6 MR. MELITO: Objection.</p> <p>7 MR. SELLS: Can we just pull it</p> <p>8 backup for a second?</p> <p>9 A. I wasn't employed in March.</p> <p>10 Q. Sorry. May 24th. May 24th, right?</p> <p>11 Effective May 24th; is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. So, it took eight days from the</p> <p>14 incident of May 16th, 2019 where Marilyn</p> <p>15 Barton threatened to kill multiple times</p> <p>16 Ms. Phillips, where she told her multiple</p> <p>17 times to, "shut the fuck up," where she was</p> <p>18 told on multiple times "I will fuck you up."</p> <p>19 It took eight days for you to draft this</p> <p>20 letter for President Brown to sign, right?</p> <p>21 MR. MELITO: Objection.</p> <p>22 Objection to form.</p> <p>23 Q. Right?</p> <p>24 A. Yes, and during that -- those eight</p> <p>25 days, I believe, that neither one of them</p>

<p style="text-align: right;">281</p> <p>1 C. GLASS</p> <p>2 were in the office.</p> <p>3 Q. Right.</p> <p>4 But no determination had been made</p> <p>5 at that point by anyone whether Marilyn</p> <p>6 Barton was a homicidal maniac --</p> <p>7 MR. MELITO: Objection --</p> <p>8 Q. -- right; there was no counseling,</p> <p>9 there was nothing that F.I.T. or you or</p> <p>10 anyone else could use to say that Marilyn</p> <p>11 Barton was not going to kill or try and kill</p> <p>12 Ms. Phillips; isn't that correct?</p> <p>13 MR. MELITO: Objection to form.</p> <p>14 A. I'd have to check the date of when</p> <p>15 she spoke with -- when she was assessed by</p> <p>16 the EAP.</p> <p>17 Q. All right.</p> <p>18 MR. SELLS: We can take down</p> <p>19 the document.</p> <p>20 MR. MELITO: I have us on the</p> <p>21 record for over seven hours and</p> <p>22 that's including our little colloquy,</p> <p>23 our little conversation that was</p> <p>24 stricken.</p> <p>25 MR. SELLS: Yeah. Well, I</p>	<p style="text-align: right;">283</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: No, this is on a</p> <p>3 particular topic. All right. I have</p> <p>4 been asking her --</p> <p>5 MR. MELITO: Derek.</p> <p>6 MR. SELLS: Look, we have</p> <p>7 already done this. Okay? And I have</p> <p>8 given leeway. You have three</p> <p>9 different people, right? Three</p> <p>10 different defendants. I have given,</p> <p>11 with regard to Ms. Phillips, she was</p> <p>12 deposed for well more than seven</p> <p>13 hours. She went for at least 10,</p> <p>14 maybe 11 hours. So, you want to try</p> <p>15 and play that game, you could go</p> <p>16 ahead and try and play that game. I</p> <p>17 got a few questions left and I would</p> <p>18 like to finish.</p> <p>19 MR. MELITO: I'm not trying to</p> <p>20 play any game. My interpretation is --</p> <p>21 MR. SELLS: You know what,</p> <p>22 let's calculate the time. Let's</p> <p>23 calculate the time. We're at 7:12</p> <p>24 and there was a lengthy discussion</p> <p>25 about whether we were even going to</p>
<p style="text-align: right;">282</p> <p>1 C. GLASS</p> <p>2 haven't even asked about the pay</p> <p>3 differential. So, I need time to go</p> <p>4 through that and I intend to do that.</p> <p>5 MR. MELITO: Sorry, but you get</p> <p>6 seven hours.</p> <p>7 MR. SELLS: You know what, no.</p> <p>8 You know she is here for two reasons</p> <p>9 okay.</p> <p>10 MR. MELITO: No, she is not.</p> <p>11 She was only noticed for 30(b)(6).</p> <p>12 You didn't send the personal notice</p> <p>13 to her. She was only noticed for</p> <p>14 30(b)(6). 30(b)(6) on three limited</p> <p>15 topic, and I have given you extensive</p> <p>16 leeway off of those three topics --</p> <p>17 MR. SELLS: Well, then I'll</p> <p>18 just re-subpoena her. I mean, you</p> <p>19 tell me what you want to do. Do you</p> <p>20 want to bring her back? I'll</p> <p>21 re-subpoena her.</p> <p>22 MR. MELITO: You're gonna have</p> <p>23 to go through court process to get</p> <p>24 her back on the stand 'cause you used</p> <p>25 up your time with her --</p>	<p style="text-align: right;">284</p> <p>1 C. GLASS</p> <p>2 continue the deposition. And so, we</p> <p>3 had a lunch break that was an hour</p> <p>4 and, you know, there is no way we</p> <p>5 were doing seven hours of</p> <p>6 questioning. So.</p> <p>7 MR. MENKEN: Ms. Simpson, can</p> <p>8 calculate the time.</p> <p>9 MR. DRANOFF: Before we</p> <p>10 calculate the time, I would like to</p> <p>11 add one thing. I just got a text</p> <p>12 that someone at my house has COVID.</p> <p>13 So, I can go with this for a little</p> <p>14 longer; but I certainly would like to</p> <p>15 have some time to check out exactly</p> <p>16 what that is about.</p> <p>17 MR. SELLS: Yes, obviously that</p> <p>18 takes priority.</p> <p>19 MR. DRANOFF: So, let's see</p> <p>20 what Lesley's calculations are; then</p> <p>21 we could talk about how much more</p> <p>22 time we think we have to go. I'm</p> <p>23 perfectly willing to power through it</p> <p>24 while I'm not laying in bed; but</p> <p>25 let's see what we could come up with.</p>

<p style="text-align: right;">285</p> <p>1 C. GLASS</p> <p>2 (Whereupon, an off-the-record</p> <p>3 discussion was held at 7:13 p.m.;</p> <p>4 after which, the proceeding continued</p> <p>5 at 7:25 p.m. as follows.)</p> <p>6 MR. SELLS: Back on the record.</p> <p>7 Q. You wrote a letter to Marilyn Barton</p> <p>8 lifting her suspension; is that correct?</p> <p>9 A. Yes.</p> <p>10 MR. SELLS: If we could pull up</p> <p>11 Exhibit 47.</p> <p>12 (Whereupon, Plaintiff's Exhibit</p> <p>13 47, letter to Marilyn Barton lifting</p> <p>14 her suspension Bates stamped F.I.T.</p> <p>15 144, was marked for identification as</p> <p>16 of this date.)</p> <p>17 (The image is shared on the</p> <p>18 computer screen.)</p> <p>19 Q. Is this the letter that you wrote?</p> <p>20 A. Yes.</p> <p>21 Q. So, now from May 24th, 2021 until</p> <p>22 June 18th Ms. Barton was suspended; is that</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. And she got paid for those 24 days</p>	<p style="text-align: right;">287</p> <p>1 C. GLASS</p> <p>2 Q. Was this considered disciplinary?</p> <p>3 MR. MELITO: Objection.</p> <p>4 A. I believe that this entire</p> <p>5 conditions of return were required of her and</p> <p>6 part of discipline in order for her to</p> <p>7 return.</p> <p>8 Q. She was already in, right? She was</p> <p>9 already back --</p> <p>10 A. No --</p> <p>11 MR. MELITO: Objection.</p> <p>12 A. Her return --</p> <p>13 Q. I'm sorry. In order for her to</p> <p>14 return she had to do what?</p> <p>15 A. It says "conditions of return."</p> <p>16 Q. Okay.</p> <p>17 But the suspension had already been</p> <p>18 lifted, right?</p> <p>19 MR. MELITO: Objection.</p> <p>20 Q. It says, "Effective immediately your</p> <p>21 employment suspension is lifted"?</p> <p>22 A. Contingent on and the conditions of</p> <p>23 that employment suspension being lifted</p> <p>24 Number 1, 2, 3 and 4 applied."</p> <p>25 Q. Oh.</p>
<p style="text-align: right;">286</p> <p>1 C. GLASS</p> <p>2 of suspension; is that correct?</p> <p>3 A. Per the contract.</p> <p>4 Q. What?</p> <p>5 A. Per the collective bargaining</p> <p>6 agreement there is no option for unpaid</p> <p>7 suspension.</p> <p>8 Q. Okay. All right.</p> <p>9 So, let's just go through her</p> <p>10 conditions of return. It says, "You must</p> <p>11 successfully complete a program of individual</p> <p>12 and/or group session therapies as recommended</p> <p>13 by the Employee Assistance Program in the</p> <p>14 Office of Human Resources and approved by</p> <p>15 F.I.T."</p> <p>16 Now, this is what you considered to</p> <p>17 be disciplinary; is that right?</p> <p>18 MR. MELITO: Objection.</p> <p>19 A. Disciplinary counseling, yes.</p> <p>20 Q. She was excused from her duties for</p> <p>21 the rest of the day, and she had to</p> <p>22 participate in the School of Graduate Studies</p> <p>23 radical empathy seminar on June 19th; is that</p> <p>24 right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">288</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: Can you scroll</p> <p>3 down -- or up I should say.</p> <p>4 Q. Now, this is endorsed by Ms. Oliva;</p> <p>5 is that correct?</p> <p>6 A. Correct.</p> <p>7 MR. SELLS: And it's Bates</p> <p>8 stamped F.I.T. 144.</p> <p>9 We can take down the document.</p> <p>10 Q. You also met with Ms. Barton before</p> <p>11 she came back; do you recall that?</p> <p>12 MR. MELITO: Objection.</p> <p>13 A. Vaguely, not very well.</p> <p>14 MR. SELLS: Can we put up</p> <p>15 number 48.</p> <p>16 (Whereupon, Plaintiff's Exhibit</p> <p>17 48, description, was marked for</p> <p>18 identification as of this date.)</p> <p>19 (The image is shared on the</p> <p>20 computer screen.)</p> <p>21 Q. Do you recognize this?</p> <p>22 A. Yes.</p> <p>23 Q. Now, who prepared this document?</p> <p>24 A. Andre Nunez.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">289</p> <p>1 C. GLASS</p> <p>2 Were these you're talking points</p> <p>3 that you were going to use in this meeting?</p> <p>4 A. This is the summary of the meeting</p> <p>5 as documented by Andre.</p> <p>6 Q. In explaining this, you said to</p> <p>7 Ms. Barton --- and this is in the second</p> <p>8 bullet point --- "There will be no charges nor</p> <p>9 committee." Is that what you wrote?</p> <p>10 A. Yes.</p> <p>11 Q. So, that means there is no</p> <p>12 discipline, right?</p> <p>13 MR. MELITO: Objection.</p> <p>14 Q. Well under the collective bargaining</p> <p>15 agreement, can't an employee dispute</p> <p>16 discipline that is given to them?</p> <p>17 A. Your first question was if it</p> <p>18 doesn't go to charges, it is not discipline.</p> <p>19 And that is not accurate.</p> <p>20 Q. Okay.</p> <p>21 A. A written warning to the file is</p> <p>22 discipline ---</p> <p>23 Q. All right. Let's keep going through</p> <p>24 it. Let's keep going through it.</p> <p>25 What you write is, "What I would</p>	<p style="text-align: right;">291</p> <p>1 C. GLASS</p> <p>2 union and college will agree to that</p> <p>3 program."</p> <p>4 Is that what you said?</p> <p>5 A. That is what I said.</p> <p>6 Q. Where in your meeting closeout do</p> <p>7 you tell Marilyn Barton that she's being</p> <p>8 given a written warning?</p> <p>9 A. If you go to the letter, there is --</p> <p>10 either here or the last document you brought</p> <p>11 up, it says that nothing but the letter will</p> <p>12 be placed in her file.</p> <p>13 Q. Do you see it in this file that</p> <p>14 there is something that is going to go into</p> <p>15 her personnel file?</p> <p>16 A. If you could scroll up, I think it's</p> <p>17 actually in the written letter. It states in</p> <p>18 the written letter that it would go to her</p> <p>19 file.</p> <p>20 Q. So it's not in this document,</p> <p>21 correct?</p> <p>22 MR. MELITO: Objection.</p> <p>23 A. If you could scroll up. I can't see</p> <p>24 the whole thing.</p> <p>25 MR. SELLS: Yes, scroll up.</p>
<p style="text-align: right;">290</p> <p>1 C. GLASS</p> <p>2 like to do is address the underlying issue</p> <p>3 with the relationship with MP --- is that</p> <p>4 Marjorie Phillips?</p> <p>5 A. Correct.</p> <p>6 Q. "--- and department." Is that</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 MR. MELITO: Sorry. Where are</p> <p>10 we?</p> <p>11 MR. SELLS: The second bullet</p> <p>12 point.</p> <p>13 MR. MELITO: Okay.</p> <p>14 Q. You write, "I hope you can breath</p> <p>15 easy knowing we aren't going to the</p> <p>16 disciplinary committee."</p> <p>17 Is that what you wrote?</p> <p>18 A. I did -- actually, that is not what</p> <p>19 I wrote. That is what I said to her in this</p> <p>20 meeting when she was distraught.</p> <p>21 Q. Okay.</p> <p>22 "However, you'll go through a formal</p> <p>23 EAP intake, and Robin Zarel will let us know</p> <p>24 what intervention she thinks is appropriate.</p> <p>25 We will have her propose something and the</p>	<p style="text-align: right;">292</p> <p>1 C. GLASS</p> <p>2 Thank you.</p> <p>3 A. So it states that it is not going to</p> <p>4 the disciplinary committee. However, she is</p> <p>5 mandated to go through the formal EAP intake</p> <p>6 process and participate in the training,</p> <p>7 which was outlined in the letter to her --</p> <p>8 Q. Okay.</p> <p>9 But you don't see anything in here</p> <p>10 about a written warning or any kind of verbal</p> <p>11 warning or any kind of warning at all, do</p> <p>12 you?</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. No, there is nothing in here. I</p> <p>15 gave her the letter at this meeting, I</p> <p>16 believe. So the two go together.</p> <p>17 Q. So let's put the letter up.</p> <p>18 (The image is shared on the</p> <p>19 computer screen.)</p> <p>20 Q. Do you see in the first paragraph?</p> <p>21 A. That's not the right letter.</p> <p>22 MR. SELLS: Can you put up</p> <p>23 Exhibit 47.</p> <p>24 (The image is shared on the</p> <p>25 computer screen.)</p>

<p style="text-align: right;">293</p> <p>1 C. GLASS</p> <p>2 Q. Are you talking about "except for</p> <p>3 this letter, no other information will be</p> <p>4 placed in your personnel file." Is that</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. So what about this letter is a</p> <p>8 written warning?</p> <p>9 A. The conditions of return and what --</p> <p>10 what -- in order to come back to work and not</p> <p>11 be resuspended, there were conditions placed</p> <p>12 on this.</p> <p>13 MR. SELLS: Can we just scroll</p> <p>14 up.</p> <p>15 A. Can you scroll down to the CC's.</p> <p>16 Personnel file -- that is a copy to the</p> <p>17 personnel file is considered discipline when</p> <p>18 it goes to the personnel file. When a</p> <p>19 document goes to as a result of an incident.</p> <p>20 Q. Well, you said that there was a</p> <p>21 written warning and she was given a written</p> <p>22 warning; is that correct?</p> <p>23 MR. MELITO: Objection.</p> <p>24 Q. This is considered a written</p> <p>25 warning?</p>	<p style="text-align: right;">295</p> <p>1 C. GLASS</p> <p>2 That letter wasn't written by Dean</p> <p>3 Davis, was it?</p> <p>4 A. No.</p> <p>5 Q. And that letter wasn't signed by</p> <p>6 you, was it?</p> <p>7 A. Those were the conditions for -- it</p> <p>8 was considered discipline, and we actually --</p> <p>9 the interesting thing was because when I got</p> <p>10 there, the practice had been for the VP to do</p> <p>11 the suspension and bring the person back as a</p> <p>12 formality. That's since changed because --</p> <p>13 Q. I'm asking about a written warning.</p> <p>14 A. Yeah.</p> <p>15 Q. You said the written warning either</p> <p>16 comes from the person's -- the employee's</p> <p>17 supervisor or HR?</p> <p>18 A. It does now.</p> <p>19 Q. I'm sorry?</p> <p>20 A. I'm trying to explain the fact that</p> <p>21 there was a change in procedure after -- I</p> <p>22 don't know, after I got the lay of the land</p> <p>23 and it -- a letter would typically -- a</p> <p>24 written -- a written reprimand would come</p> <p>25 from the supervisor or HR. At that point in</p>
<p style="text-align: right;">294</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: We can take down</p> <p>3 the document.</p> <p>4 Q. Doesn't a written warning say</p> <p>5 "written warning"?</p> <p>6 MR. MELITO: Objection.</p> <p>7 A. This is letter she received.</p> <p>8 Q. That is not what I am asking you. I</p> <p>9 am asking you, If someone is given written</p> <p>10 warning, is that a formal disciplinary</p> <p>11 action?</p> <p>12 A. They get a letter.</p> <p>13 Q. Does it say "written warning"?</p> <p>14 MR. MELITO: Objection.</p> <p>15 A. It could or it couldn't. It is a</p> <p>16 letter about communication about</p> <p>17 expectations.</p> <p>18 Q. Have you ever written a written</p> <p>19 warning letter for someone?</p> <p>20 A. I'm sure I have.</p> <p>21 Q. Okay.</p> <p>22 And who does the written warning</p> <p>23 come from?</p> <p>24 A. Either a supervisor or HR.</p> <p>25 Q. All right.</p>	<p style="text-align: right;">296</p> <p>1 C. GLASS</p> <p>2 time, the college had -- the process was that</p> <p>3 the -- the senior administrator of the area,</p> <p>4 the vice president would sign the letter.</p> <p>5 Q. I see. So you changed the policy?</p> <p>6 A. I did.</p> <p>7 Q. But just to be clear, nowhere in</p> <p>8 that communication did you tell -- in that</p> <p>9 written communication or the points that you</p> <p>10 raised with Ms. Barton in her return did you</p> <p>11 say she was being given a written warning,</p> <p>12 right?</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. Those notes are what Andre</p> <p>15 transcribed. I can't tell if I did or did</p> <p>16 not say written warning specifically in that</p> <p>17 meeting.</p> <p>18 Q. You didn't say verbal warning,</p> <p>19 right?</p> <p>20 A. No --</p> <p>21 MR. MELITO: Objection --</p> <p>22 A. It wasn't verbal.</p> <p>23 Q. Got it. Okay.</p> <p>24 In terms of compensation, following</p> <p>25 Ms. Barton's verbal tirade against</p>

<p style="text-align: right;">297</p> <p>1 C. GLASS</p> <p>2 Ms. Phillips and her threats to kill her, she</p> <p>3 was given raise and a change in title,</p> <p>4 correct?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. She was -- I don't know when that</p> <p>7 was. She went through the reclassification</p> <p>8 process, I believe, in the contract where a</p> <p>9 change in duties can be sent to a joint labor</p> <p>10 management committee for review.</p> <p>11 Q. And she got a raise and a</p> <p>12 reclassification, correct?</p> <p>13 MR. MELITO: Objection.</p> <p>14 A. I believe so.</p> <p>15 Q. And that happened after she</p> <p>16 threatened to kill Ms. Phillips multiple</p> <p>17 time, right?</p> <p>18 MR. MELITO: Objection.</p> <p>19 A. I can't answer that. I don't know</p> <p>20 the date.</p> <p>21 MR. SELLS: All right. We call</p> <p>22 for the production of documents</p> <p>23 reflecting the reclassification of</p> <p>24 Marilyn Barton's job.</p> <p>25 Q. Let me ask you this --</p>	<p style="text-align: right;">299</p> <p>1 C. GLASS</p> <p>2 Q. Well, the decision to give her the</p> <p>3 raise and the reclassification happened after</p> <p>4 this incident, correct?</p> <p>5 MR. MELITO: Objection.</p> <p>6 A. I answered that I do not know the</p> <p>7 date of the reclassification.</p> <p>8 Q. Well, did you sign off on it?</p> <p>9 A. If it happened after I arrived, yes.</p> <p>10 MR. SELLS: I call for the</p> <p>11 production of the reclassification</p> <p>12 and raise process Marilyn Barton went</p> <p>13 through following the May 2019</p> <p>14 incident.</p> <p>15 MR. MELITO: Put the request in</p> <p>16 writing, and we will respond</p> <p>17 accordingly.</p> <p>18 Q. What is involved in the</p> <p>19 reclassification and raise process for union</p> <p>20 employees?</p> <p>21 A. If there is a significant change in</p> <p>22 duty, the employee or the supervisor can</p> <p>23 request a review of their job duties, and the</p> <p>24 contract dictates the process and the fact</p> <p>25 that whenever the request is submitted to HR,</p>
<p style="text-align: right;">298</p> <p>1 C. GLASS</p> <p>2 MR. MELITO: Follow up your</p> <p>3 request in writing.</p> <p>4 Q. You didn't get there at F.I.T. until</p> <p>5 April of 2019, correct?</p> <p>6 A. Late April.</p> <p>7 Q. Right.</p> <p>8 This incident happened May of 2019,</p> <p>9 right; the incident involving Ms. Barton and</p> <p>10 Ms. Phillips happened on May 16th of 2019,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. So, certainly the reclassification</p> <p>14 didn't come in April or before May 16th of</p> <p>15 2019, right?</p> <p>16 A. There's an entire process --</p> <p>17 MR. MELITO: Objection --</p> <p>18 A. -- that it has to go through before</p> <p>19 it would ever come to me. So I don't know at</p> <p>20 what point in time that was submitted or --</p> <p>21 Q. The point is, it didn't happen</p> <p>22 before the incident?</p> <p>23 A. Well, it could have been submitted.</p> <p>24 It could take months and months and months</p> <p>25 for this to happen. It's not --</p>	<p style="text-align: right;">300</p> <p>1 C. GLASS</p> <p>2 it's date stamped in order to ensure whatever</p> <p>3 decision is made or how much time it takes</p> <p>4 for that decision to be made that any</p> <p>5 potential change is retroactive to the date</p> <p>6 that it was submit.</p> <p>7 Q. Got it.</p> <p>8 Now did you understand that</p> <p>9 Ms. Phillips, as part of her retaliation</p> <p>10 claim in this lawsuit, indicated that</p> <p>11 following -- that before she made her</p> <p>12 complaint to Dean Davis about discrimination</p> <p>13 in March of 2018 that she had had discussions</p> <p>14 with Dean Davis about getting a change in her</p> <p>15 classification and a raise?</p> <p>16 MR. MELITO: Objection to form.</p> <p>17 A. I don't recall.</p> <p>18 Q. And then following the complaints of</p> <p>19 discrimination and retaliation that she made,</p> <p>20 that she is not been reclassified and she has</p> <p>21 not gotten a raise that Dean Davis said she</p> <p>22 would get, are you aware of that?</p> <p>23 MR. MELITO: Objection to form.</p> <p>24 MR. DRANOFF: Object to the</p> <p>25 form.</p>

<p style="text-align: right;">301</p> <p>1 C. GLASS</p> <p>2 A. So first part is, I'm not aware of a</p> <p>3 reclassification. I have not signed one.</p> <p>4 Second part, I have no idea</p> <p>5 what Dean Davis said, but it would</p> <p>6 take a change in the job description</p> <p>7 and a reclassification committee for</p> <p>8 that to happen.</p> <p>9 Q. Got it.</p> <p>10 And as dean of the Graduate School</p> <p>11 and Ms. Phillips' direct supervisor, she had</p> <p>12 the authority and ability to ask HR for this</p> <p>13 reclassification and raise; is that correct?</p> <p>14 MR. MELITO: Objection.</p> <p>15 MR. DRANOFF: Object to the</p> <p>16 form.</p> <p>17 A. She had the ability through the</p> <p>18 contract to propose a change to the job to</p> <p>19 the vice president who would then have to</p> <p>20 sign off in order for the re-evaluation</p> <p>21 committee to be enacted to --</p> <p>22 Q. So, when you say she had the ability</p> <p>23 to ask the VP, you're talking about the VP in</p> <p>24 charge of Human Resources, right?</p> <p>25 A. No.</p>	<p style="text-align: right;">303</p> <p>1 C. GLASS</p> <p>2 right?</p> <p>3 MR. MELITO: I'm going to note</p> <p>4 that we have six minutes back on the</p> <p>5 record once you come back.</p> <p>6 MR. SELLS: That's cool. All</p> <p>7 right. Thank you.</p> <p>8 (Whereupon, a brief recess was</p> <p>9 taken at 7:49 p.m.; after which, the</p> <p>10 proceeding continued at 7:51 p.m. as</p> <p>11 follows.)</p> <p>12 MR. SELLS: I have no further</p> <p>13 questions of, Ms. Glass.</p> <p>14 MR. MELITO: Could I just -- on</p> <p>15 the record I want to make one note</p> <p>16 for the record. I would just like to</p> <p>17 call for the production of any notes</p> <p>18 that Ms. Phillips took during this</p> <p>19 deposition and as well as the</p> <p>20 deposition of Ms. Kekana.</p> <p>21 MR. SELLS: If you could just</p> <p>22 follow that up in writing, we'll</p> <p>23 respond.</p> <p>24 MR. MELITO: Okay. That's it</p> <p>25 for me.</p>
<p style="text-align: right;">302</p> <p>1 C. GLASS</p> <p>2 Q. Who?</p> <p>3 A. Her VP of Academic Affairs.</p> <p>4 Q. That would have been Olivia or who</p> <p>5 was the person?</p> <p>6 A. Jack Oliva.</p> <p>7 Q. Jack Oliva, right. All right.</p> <p>8 And have you looked at whether or</p> <p>9 not Jack Oliva ever received from Ms. Davis a</p> <p>10 request on behalf of Ms. Phillips to</p> <p>11 reclassify her and get her a raise?</p> <p>12 MR. MELITO: Objection to form.</p> <p>13 A. I'm not -- I'm not aware of any.</p> <p>14 Q. And have you seen any documents</p> <p>15 related to Ms. Phillips being -- or any</p> <p>16 documents that would reflect a request on</p> <p>17 behalf of Ms. Phillips to receive a new job</p> <p>18 description as well as a raise request?</p> <p>19 MR. MELITO: Objection.</p> <p>20 A. Not that I'm aware of.</p> <p>21 MR. SELLS: I'm going to go off</p> <p>22 the record. I just need a couple of</p> <p>23 minutes to just review my notes.</p> <p>24 I'll be back shortly and then</p> <p>25 hopefully we can close this out. All</p>	<p style="text-align: right;">304</p> <p>1 C. GLASS</p> <p>2 MR. SELLS: Okay.</p> <p>3 (Time Ended: 7:53 p.m.)</p> <p>4</p> <p>5 * * *</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

305		307	
1	C. GLASS	1	C. GLASS
2	A C K N O W L E D G M E N T	2	I N D E X
3		3	
4	I, CYNTHIA GLASS, do solemnly swear	4	EXAMINATION BY PAGE
5	under the penalty of perjury that I have read	5	MR. SELLS: 5
6	the foregoing deposition transcript, which was	6	
7	taken under oath reflecting the questions	7	
8	elicited from me and my answers thereto.	8	R U L I N G S
9	This transcript is true and complete.	9	Page 28
10	If I deemed it necessary, I indicated	10	Q. So am I to understand that under F.I.T.'s
11	additions, changes or corrections on the	11	policy, an F.I.T. employee could walk into
12	attached errata sheet.	12	another F.I.T. employee's office, close and
13		13	lock the door, rape that employee -- viciously
14		14	rape that employee and under F.I.T. policy the
15		15	rapist could not be fired without the union's
16	CYNTHIA GLASS	16	approval; is that right, Ms. Glass?
17		17	
18	Subscribed and sworn to before me	18	
19	this ____ day of _____ 2022.	19	
20		20	
21		21	
22	Notary Public	22	
23		23	
24		24	
25		25	

306		308	
1	C. GLASS	1	C. GLASS
2	E X H I B I T S	2	
3		3	D O C U M E N T S & R E Q U E S T S
4	PLAINTIFF'S EXHIBITS:	4	DESCRIPTION PAGE
5	EXHIBIT EXHIBIT PAGE	5	(Request Index By: Mr. Sells)
6	NUMBER DESCRIPTION	6	Production of the charge sheet that 92
7	63 Part of a filing made via ECF in the New York State system in connection with index number 151757 of 2021	7	Dr. Glass filled out with regard to Kyle Farmer.
8	62 Exhibit to Dean Davis' opposition	8	Production of the report that was issued in connection with the investigation. 97
9	36 Two-page document Bates stamped F.I.T.237 to 238	9	Production of the suspension. 98
10	64 Attachment to affirmation in support of motion to dismiss	10	Again, we'll put it in writing and try to get a copy of the report. 102
11	39 Anton Baptiste's statement	11	Production of the letter that you sent to Dean Davis informing her of her termination. 103
12	40 Statement from Henry Wallace	12	Production of the arbitration file related to Mr. Farmer's termination. 104
13	47 Letter to Marilyn Barton lifting her suspension Bates stamped F.I.T.144	13	Production of records related to Kyle Farmer's consultation as well as Marilyn Barton's consultation. 207
14		14	Production of the full e-mail thread. There is clearly e-mails missing from this. 251
15		15	Production of documents reflecting the reclassification of Marilyn Barton's job. 297
16		16	Production of the reclassification and raise process Marilyn Barton went through following the May 2019 incident. 299
17		17	(Request Index By: Mr. Melito)
18		18	Production of any notes that Ms. Phillips took during this deposition and as well as the deposition of Ms. Kekana 303
19		19	
20		20	
21		21	
22		22	
23		23	
24		24	
25		25	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C. GLASS
C E R T I F I C A T E

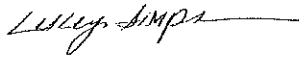
The undersigned stenographer hereby
certifies:

That the foregoing deponent was duly
sworn by myself and this transcript is a true
record of the testimony by the witness and of
all objections made by counsel at the time and
place detailed herein.

That I am not related to any of the
parties in this action by blood or by marriage

That I am in no way interested in the
outcome of this litigation.

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of January 2022.



LESLEY SIMPSON